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REMARKS

The specification has been amended to delete reference to a web site recited at page 12, line 31 of the application in association with a software provider, and to recite instead, the address of the provider. No new matter is added by this amendment, and entry of the amendment is requested.

Election/Restriction

The Examiner stated that applicants election, with traverse of Group I and the ten elected sequences 1-3, 6, 8-11, 20 and 22 is acknowledged. Applicant's argument regarding the examination of claims 1-5 and 11-14 has been found persuasive and are therefore hereby being examined but the argument regarding ten elected sequences has not been found persuasive. However, three SEQ IDs 1, 3 and 8 have been searched. The requirement is deemed proper and is therefore made FINAL.

Applicants Response

Applicants thank the Examiner for his reconsideration of the Restriction Requirement and examination of SEQ ID NOs:1, 3 and 8 relative to claims 1-5 and 11-14.

Specification

The Examiner has objected to the disclosure because it contains an embedded hyperlink and/or other form of browser-executable code at page 12, line 31. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code.

The specification has been so amended and withdrawal of the objection is requested.

35 U.S.C. § 101, Rejection of Claims 1-5 and 11-14

The Examiner has rejected claims 1-5 and 11-14 under 35 U.S.C. § 101 because the claimed invention lacks patentable utility due to its not being supported by either a specific and substantial utility or a well established utility.

The Examiner stated that the claimed compounds are supported by a specific and substantial asserted utility because the disclosed use(s) of the nucleic acids are not specific and are generally applicable to any nucleic acid. The specification states that the nucleic acid compounds may be useful as probes for assisting in the isolation of full-length cDNAs or genes which would be used to make protein and optionally further usage to make antibodies, gene mapping isolation of homologous sequences, detection of gene expression, chromosomal markers and numerous other generic genetic

engineering uses. These uses are non-specific that are applicable to nucleic acids in general and are not particular or specific to the nucleic acids being claimed.

The Examiner stated that a nucleic acid may be utilized to obtain a protein. However, identifying and studying the properties of a protein itself or the mechanisms in which the protein is involved does not define a “real world” context of use. Similarly, the other listed and asserted utilities as summarized above or in the instant specification are neither substantial or specific due to being generic in nature and applicable to a myriad of such compounds. Neither the specification as filed nor any art of record discloses or suggests any property or activity for the nucleic acid and/or protein compound(s) such that another non-asserted utility would be well established for the compounds.

Applicants Response

Applicants disagree that the instant application does not support a specific and substantial asserted utility or a well established utility that would be readily apparent to one of skill in the art based on the disclosure in the specification and the conventional knowledge of one skilled in the art.

In particular, applicants disagree that the specification does not disclose a utility that is sufficiently “specific” to the claimed nucleic acids. This does not preclude, however, a general utility, contrary to the statement in the Training Materials where “specific utility” is defined (page 5). Practical real-world uses are not limited to uses that are unique to an invention. The law requires that the practical utility be “definite,” not particular. *Montedison*, 664 F.2d at 375.

The specification discloses that the claimed nucleic acids representing genes that are differentially expressed during adipocyte differentiation and which may be used to diagnose, stage, treat or to monitor the progression or treatment of a disorder associated with adipocyte differentiation. These disorders specifically include obesity, type II diabetes, lipodystrophy, and hyperinsulinemia. See specification at page 7, lines 30-33. This utility is fully supported by the specification at page 8 and Tables 2-5 showing that the claimed polynucleotides represent genes exhibiting significant (at least 2-fold) differential expression in differentiated human adipocytes. Clearly, this is not a utility that is “applicable to nucleic acids in general” as the Examiner alleges.

In addition, the claimed invention has numerous practical, beneficial uses in toxicology testing and drug development, none of which requires knowledge of how the polypeptide coded for by the polynucleotide actually functions.

In support of the above statement, Applicants submit three expert Declarations under 37

C.F.R. § 1.132, with respective attachments, and ten (10) scientific references filed before the July 28, 2000 priority date of the instant application. The Rockett Declaration, Iyer Declaration, Bedilion Declaration, and the ten (10) references fully establish that, prior to the July 28, 2000 filing date of the parent Schebye '470 application, it was well-established in the art that:

polynucleotides derived from nucleic acids expressed in one or more tissues and/or cell types can be used as hybridization probes -- that is, as tools -- to survey for and to measure the presence, the absence, and the amount of expression of their cognate gene;

with sufficient length, at sufficient hybridization stringency, and with sufficient wash stringency -- conditions that can be routinely established -- expressed polynucleotides, used as probes, generate a signal that is specific to the cognate gene, that is, produce a gene-specific expression signal;

expression analysis is useful, *inter alia*, in drug discovery and lead optimization efforts, in toxicology, particularly toxicology studies conducted early in drug development efforts, and in phenotypic characterization and categorization of cell types, including neoplastic cell types;

each additional gene-specific probe used as a tool in expression analysis provides an additional gene-specific signal that could not otherwise have been detected, giving a more comprehensive, robust, higher resolution, statistically more significant, and thus more useful expression pattern in such analyses than would otherwise have been possible;

biologists, such as toxicologists, recognize the increased utility of more comprehensive, robust, higher resolution, statistically more significant results, and thus want each newly identified expressed gene to be included in such an analysis;

nucleic acid microarrays increase the parallelism of expression measurements, providing expression data analogous to that provided by older, lower throughput techniques, but at substantially increased throughput;

accordingly, when expression profiling is performed using microarrays, each additional gene-specific probe that is included as a signaling component on this analytical device increases the detection range, and thus versatility, of this research tool;

biologists, such as toxicologists, recognize the increased utility of

such improved tools, and thus want a gene-specific probe to each newly identified expressed gene to be included in such an analytical device;

the industrial suppliers of microarrays recognize the increased utility of such improved tools to their customers, and thus strive to improve salability of their microarrays by adding each newly identified expressed gene to the microarrays they sell;

it is not necessary that the biological function of a gene be known for measurement of its expression to be useful in drug discovery and lead optimization analyses, toxicology, or molecular phenotyping experiments;

failure of a probe to detect changes in expression of its cognate gene does not diminish the usefulness of the probe as a research tool; and

failure of a probe completely to detect its cognate transcript in any single expression analysis experiment does not deprive the probe of usefulness to the community of users who would use it as a research tool.

The Patent Examiner does not dispute that the claimed polynucleotide can be used as a probe in cDNA microarrays and used in gene expression monitoring applications. Instead, the Patent Examiner contends that the claimed polynucleotide cannot be useful without precise knowledge of its biological function, or the biological function of the polypeptide it encodes. But the law has never required knowledge of biological function to prove utility. It is the claimed invention's uses, not its functions; that are the subject of a proper analysis under the utility requirement.

In any event, as demonstrated by the Rockett Declaration, the Iyer Declaration, and the Bedilion Declaration, the person of ordinary skill in the art can achieve beneficial results from the claimed polynucleotide in the absence of any knowledge as to the precise function of the protein encoded by it. The uses of the claimed polynucleotide in gene expression monitoring applications are in fact independent of its precise biological function.

I. The applicable legal standard

To meet the utility requirement of sections 101 and 112 of the Patent Act, the patent applicant need only show that the claimed invention is "practically useful," *Anderson v. Natta*, 480 F.2d 1392, 1397, 178 USPQ 458 (CCPA 1973) and confers a "specific benefit" on the public. *Brenner v.*

Manson, 383 U.S. 519, 534-35, 148 USPQ 689 (1966). As discussed in a recent Court of Appeals for the Federal Circuit case, this threshold is not high:

An invention is “useful” under section 101 if it is capable of providing some identifiable benefit. See *Brenner v. Manson*, 383 U.S. 519, 534 [148 USPQ 689] (1966); *Brooktree Corp. v. Advanced Micro Devices, Inc.*, 977 F.2d 1555, 1571 [24 USPQ2d 1401] (Fed. Cir. 1992) (“to violate Section 101 the claimed device must be totally incapable of achieving a useful result”); *Fuller v. Berger*, 120 F. 274, 275 (7th Cir. 1903) (test for utility is whether invention “is incapable of serving any beneficial end”).

Juicy Whip Inc. v. Orange Bang Inc., 51 USPQ2d 1700 (Fed. Cir. 1999).

While an asserted utility must be described with specificity, the patent applicant need not demonstrate utility to a certainty. In *Stiftung v. Renishaw PLC*, 945 F.2d 1173, 1180, 20 USPQ2d 1094 (Fed. Cir. 1991), the United States Court of Appeals for the Federal Circuit explained:

An invention need not be the best or only way to accomplish a certain result, and it need only be useful to some extent and in certain applications: “[T]he fact that an invention has only limited utility and is only operable in certain applications is not grounds for finding lack of utility.” *Envirotech Corp. v. Al George, Inc.*, 730 F.2d 753, 762, 221 USPQ 473, 480 (Fed. Cir. 1984).

The specificity requirement is not, therefore, an onerous one. If the asserted utility is described so that a person of ordinary skill in the art would understand how to use the claimed invention, it is sufficiently specific. See *Standard Oil Co. v. Montedison, S.p.a.*, 212 U.S.P.Q. 327, 343 (3d Cir. 1981). The specificity requirement is met unless the asserted utility amounts to a “nebulous expression” such as “biological activity” or “biological properties” that does not convey meaningful information about the utility of what is being claimed. *Cross v. Iizuka*, 753 F.2d 1040, 1048 (Fed. Cir. 1985).

In addition to conferring a specific benefit on the public, the benefit must also be “substantial.” *Brenner*, 383 U.S. at 534. A “substantial” utility is a practical, “real-world” utility. *Nelson v. Bowler*, 626 F.2d 853, 856, 206 USPQ 881 (CCPA 1980).

If persons of ordinary skill in the art would understand that there is a “well-established” utility for the claimed invention, the threshold is met automatically and the applicant need not make any showing to demonstrate utility. Manual of Patent Examining Procedure at § 706.03(a). Only if there is no “well-established” utility for the claimed invention must the applicant demonstrate the practical benefits of the invention. *Id.*

Once the patent applicant identifies a specific utility, the claimed invention is presumed to possess it. *In re Cortright*, 165 F.3d 1353, 1357, 49 USPQ2d 1464 (Fed. Cir. 1999); *In re Brana*, 51 F.3d 1560, 1566; 34 USPQ2d 1436 (Fed. Cir. 1995). In that case, the Patent Office bears the burden of demonstrating that a person of ordinary skill in the art would reasonably doubt that the asserted utility could be achieved by the claimed invention. *Id.* To do so, the Patent Office must provide evidence or sound scientific reasoning. *See In re Langer*, 503 F.2d 1380, 1391-92, 183 USPQ 288 (CCPA 1974). If and only if the Patent Office makes such a showing, the burden shifts to the applicant to provide rebuttal evidence that would convince the person of ordinary skill that there is sufficient proof of utility. *Brana*, 51 F.3d at 1566. The applicant need only prove a “substantial likelihood” of utility; certainty is not required. *Brenner*, 383 U.S. at 532.

II The uses of the claimed invention in disease detection and diagnosis, in toxicology testing and drug discovery are sufficient utilities under 35 U.S.C. §§ 101 and 112, first paragraph

The claimed invention meets all of the necessary requirements for establishing a credible utility under the Patent Law: There are “well-established” uses for the claimed invention known to persons of ordinary skill in the art, and there are specific practical and beneficial uses for the invention disclosed in the patent application’s specification. These uses are explained, in detail, in the Rockett Declaration, the Bedilion Declaration, and the Iyer Declaration accompanying this brief. Objective evidence, not considered by the Patent Office, further corroborates the credibility of the asserted utilities.

A. The uses of claimed polynucleotides for toxicology testing, drug discovery, and disease diagnosis are practical uses that confer “specific benefits” to the public

The claimed invention has specific, substantial, real-world utility by virtue of its use in toxicology testing, drug development and disease diagnosis through gene expression profiling. These uses are explained in detail in the accompanying Rockett Declaration, Iyer Declaration, and Bedilion Declaration, the substance of which is not rebutted by the Patent Examiner. There is no dispute that the

claimed invention is in fact a useful tool in cDNA microarrays used to perform gene expression analysis. That is sufficient to establish utility for the claimed polynucleotide.

The instant application claims priority to USSN 60/222,470, filed July 28, 2000, having the identical specification (hereinafter “the Schebye ‘470 application”).

In his Declaration, Dr. Rockett explains the many reasons why a person skilled in the art in 2000 would have understood that any expressed polynucleotide is useful for a number of gene expression monitoring applications, *e.g.*, in cDNA microarrays, in connection with the development of drugs and the monitoring of the activity of such drugs. (Rockett Declaration at, *e.g.*, ¶¶ 10-18).

It is my opinion, therefore, based on the state of the art in toxicology at least since the mid-1990s . . . that disclosure of the sequence of a new gene or protein, with or without knowledge of its biological function, would have been sufficient information for a toxicologist to use the gene and/or protein in expression profiling studies in toxicology.¹ [Rockett Declaration, ¶ 18.]

In his Declaration, Dr. Bedilion explains why a person of skill in the art in 2000 would have understood that any expressed polynucleotide is useful for gene expression monitoring applications using cDNA microarrays. (Second Bedilion Declaration, *e.g.*, ¶¶ 4-7.) In his Declaration, Dr. Iyer explains why a person of skill in the art in 2000 would have understood that any expressed polynucleotide is useful for gene expression monitoring applications using cDNA microarrays, stating that “[t]o provide maximum versatility as a research tool, the microarray should include – and as a biologist I would want my microarray to include – each newly identified gene as a probe.” (Iyer Declaration, ¶ 9.)

In addition, Dr. Rockett explains in his Declaration that “there are a number of other differential expression analysis technologies that precede the development of microarrays, some by decades, and that have been applied to drug metabolism and toxicology research, including: (1) differential screening; (2) subtractive hybridization, including variants such as chemical cross-linking subtraction, suppression-PCR subtractive hybridization and representational difference analysis; (3) differential display; (4)

¹“Use of the words ‘it is my opinion’ to preface what someone of ordinary skill in the art would have known does not transform the factual statements contained in the declaration into opinion testimony.” *In re Alton*, 37 USPQ2d 1578, 1583 (Fed. Cir. 1996).

restriction endonuclease facilitated analyses, including serial analysis of gene expression (SAGE) and gene expression fingerprinting and (5) EST analysis.” (Rockett Declaration, ¶ 7.)

Nowhere does the Patent Examiner address the fact that, as described on page 10 of the Schebye ‘470 application, the claimed polynucleotides can be used as highly specific probes in, for example, cDNA microarrays – probes that without question can be used to measure both the existence and amount of complementary RNA sequences known to be the expression products of the claimed polynucleotides. The claimed invention is not, in that regard, some random sequence whose value as a probe is speculative or would require further research to determine.

Given the fact that the claimed polynucleotide is known to be expressed, its utility as a measuring and analyzing instrument for expression levels is as indisputable as a scale's utility for measuring weight. This use as a measuring tool, regardless of how the expression level data ultimately would be used by a person of ordinary skill in the art, by itself demonstrates that the claimed invention provides an identifiable, real-world benefit that meets the utility requirement. *Raytheon v. Roper*, 724 F.2d 951, (Fed. Cir. 1983) (claimed invention need only meet one of its stated objectives to be useful); *In re Cortwright*, 165 F.3d 1353, 1359 (Fed. Cir. 1999) (how the invention works is irrelevant to utility); MPEP § 2107 (“Many research tools such as gas chromatographs, screening assays, and nucleotide sequencing techniques have a clear, specific, and unquestionable utility (e.g., they are useful in analyzing compounds)” (emphasis added).

Literature reviews published before the filing of the Schebye ‘470 application describing the state of the art further confirm the claimed invention's utility. Rockett et al. confirm, for example, that the claimed invention is useful for differential expression analysis regardless of how expression is regulated:

Despite the development of multiple technological advances which have recently brought the field of gene expression profiling to the forefront of molecular analysis, recognition of the importance of differential gene expression and characterization of differentially expressed genes has existed for many years.

* * *

Although differential expression technologies are applicable to a broad range of models, perhaps their most important advantage is that, in most cases, absolutely no prior knowledge of the specific genes which are up- or down-regulated is required.

* * *

Whereas it would be informative to know the identity and functionality of all genes up/down regulated by . . . toxicants, this would appear a longer term goal However, the current use of gene profiling yields a *pattern* of gene changes for a xenobiotic of unknown toxicity which may be matched to that of well characterized toxins, thus alerting the toxicologist to possible *in vivo* similarities between the unknown and the standard, thereby providing a platform for more extensive toxicological examination. (emphasis in original)

Rockett et al., Differential gene expression in drug metabolism and toxicology: practicalities, problems and potential, Xenobiotica 29:655-691 (July 1999) (Reference No. 5).

In another pre-July 2000 article, Lashkari et al. state explicitly that sequences that are merely “predicted” to be expressed (predicted Open Reading Frames, or ORFs) – the claimed invention in fact is known to be expressed – have numerous uses:

Efforts have been directed toward the amplification of each predicted ORF or any other region of the genome ranging from a few base pairs to several kilobase pairs. There are many uses for these amplicons – they can be cloned into standard vectors or specialized expression vectors, or can be cloned into other specialized vectors such as those used for two-hybrid analysis. The amplicons can also be used directly by, for example, arraying onto glass for expression analysis, for DNA binding assays, or for any direct DNA assay. (emphasis added)

Lashkari et al., Whole genome analysis: Experimental access to all genome sequenced segments through larger-scale efficient oligonucleotide synthesis and PCR, Proc. Nat. Acad. Sci. 94:8945-8947 (Aug. 1997) (Reference No. 6).

B. The use of polynucleotides coding for polypeptides expressed by humans as tools for toxicology testing, drug discovery, and the diagnosis of disease is now “well-established”

The technologies made possible by expression profiling and the DNA tools upon which they rely are now well-established. The technical literature recognizes not only the prevalence of these technologies, but also their unprecedented advantages in drug development, testing and safety assessment. These technologies include toxicology testing, e.g., as described by Bedilion, Rockett, and Iyer in their Declarations.

Toxicology testing is now standard practice in the pharmaceutical industry. See, e.g., John C. Rockett et al., *supra*:

Knowledge of toxin-dependent regulation in target tissues is not solely an academic pursuit as much interest has been generated in the pharmaceutical industry to harness this technology in the early identification of toxic drug candidates, thereby shortening the developmental process and contributing substantially to the safety assessment of new drugs. (Reference No. 5, page 656)

To the same effect are several other scientific publications, including Emile F. Nuwaysir et al., Microarrays and toxicology: The advent of toxicogenomics, Molecular Carcinogenesis 24:153-159 (1999) (Reference No. 7); Sandra Steiner and N. Leigh Anderson, Expression profiling in toxicology - potentials and limitations, Toxicology Letters 112-13:467-471 (2000) (Reference No. 8).

Nucleic acids useful for measuring the expression of whole classes of genes are routinely incorporated for use in toxicology testing. Nuwaysir et al. describes, for example, a Human ToxChip comprising 2089 human clones, which were selected

for their well-documented involvement in basic cellular processes as well as their responses to different types of toxic insult. Included on this list are DNA replication and repair genes, apoptosis genes, and genes responsive to PAHs and dioxin-like compounds, peroxisome proliferators, estrogenic compounds, and oxidant stress. Some of the other categories of genes include transcription factors, oncogenes, tumor suppressor genes, cyclins, kinases, phosphatases, cell adhesion and motility genes, and homeobox genes. Also included in this group are 84 housekeeping genes, whose hybridization intensity is averaged and used for signal normalization of the other genes on the chip.

See also Table 1 of Nuwaysir et al. (listing additional classes of genes deemed to be of special interest in making a human toxicology microarray).

The more genes that are available for use in toxicology testing, the more powerful the technique. "Arrays are at their most powerful when they contain the entire genome of the species they are being used to study." John C. Rockett and David J. Dix, Application of DNA arrays to toxicology, Environ. Health Perspec.107:681-685 (1999) (Reference No. 9). Control genes are carefully selected for their stability across a large set of array experiments in order to best study the effect of toxicological compounds. See attached email from the primary investigator on the Nuwaysir paper, Dr. Cynthia Afshari, to an Incyte employee, dated July 3, 2000, as well as the original message to which she was responding (Reference No. 10), indicating that even the expression of carefully selected control genes

can be altered. Thus, there is no expressed gene which is irrelevant to screening for toxicological effects, and all expressed genes have a utility for toxicological screening.

Further evidence of the well-established utility of all expressed polypeptides and polynucleotides in toxicology testing is found in U.S. Pat. No. 5,569,588 (Reference No. 4e) and published PCT applications WO 95/21944 (Reference No. 4a), WO 95/20681 (Reference No. 2), and WO 97/13877 (Reference No. 4g).

WO 95/21944 ("Differentially expressed genes in healthy and diseased subjects"), published August 17, 1995, describes the use of microarrays in expression profiling analyses, emphasizing that *patterns* of expression can be used to distinguish healthy tissues from diseased tissues and that *patterns* of expression can additionally be used in drug development and toxicology studies, without knowledge of the biological function of the encoded gene product. In particular, and with emphasis added:

The present invention involves . . . methods for diagnosing diseases . . . characterized by the presence of [differentially expressed] . . . genes, despite the absence of knowledge about the gene or its function. The methods involve the use of a composition suitable for use in hybridization which consists of a solid surface on which is immobilized at pre-defined regions thereon a plurality of defined oligonucleotide/polynucleotide sequences for hybridization. Each sequence comprises a fragment of an EST. . . Differences in hybridization patterns produced through use of this composition and the specified methods enable diagnosis of diseases based on differential expression of genes of unknown function. . . . [abstract]

The method [of the present invention] involves producing and comparing hybridization patterns formed between samples of expressed mRNA or cDNA polynucleotide sequences . . . and a defined set of oligonucleotide/polynucleotide[] . . . immobilized on a support. Those defined [immobilized] oligonucleotide/polynucleotide sequences are representative of the total expressed genetic component of the cells, tissues, organs or organism as defined by the collection of partial cDNA sequences (ESTs). [page 2]

The present invention meets the unfilled needs in the art by providing methods for the . . . use of gene fragments and genes, even those of unknown full length sequence and unknown function, which are differentially expressed in a healthy animal and in an animal having a specific disease or infection by use of ESTs derived from DNA libraries of healthy and/or diseased/infected animals. [page 4]

Yet another aspect of the invention is that it provides . . . a means for . . . monitoring the efficacy of disease treatment regimes including . . . toxicological effects thereof." [page 4]

It has been appreciated that one or more differentially identified EST or gene-specific oligonucleotide/polynucleotides define a pattern of differentially expressed genes diagnostic of a predisease, disease or infective state. A knowledge of the specific biological function of the EST is not required only that the EST[] identifies a gene or genes whose altered expression is associated reproducibly with the predisease, disease or infectious state. [page 4]

As used herein, the term 'disease' or 'disease state' refers to any condition which deviates from a normal or standardized healthy state in an organism of the same species in terms of differential expression of the organism's genes. . . [whether] of genetic or environmental origin, for example, an inherited disorder such as certain breast cancers. . . .[or] administration of a drug or exposure of the animal to another agent, e.g., nutrition, which affects gene expression. [page 5]

As used herein, the term 'solid support' refers to any known substrate which is useful for the immobilization of large numbers of oligonucleotide/polynucleotide sequences by any available method . . . [and includes, *inter alia*,] nitrocellulose, . . . glass, silica. . . . [page 6]

By 'EST' or 'Expressed Sequence Tag' is meant a partial DNA or cDNA sequence of about 150 to 500, more preferably about 300, sequential nucleotides. . . . [page 6]

One or more libraries made from a single tissue type typically provide at least about 3000 different (i.e., unique) ESTs and potentially the full complement of all possible ESTs representing all cDNAs e.g., 50,000 – 100,000 in an animal such as a human. [page 7]

The lengths of the defined oligonucleotide/ polynucleotides may be readily increased or decreased as desired or needed. . . . The length is generally guided by the principle that it should be of sufficient length to insure that it is on[] average only represented once in the population to be examined. [page 7]

Comparing the . . . hybridization patterns permits detection of those defined oligonucleotide/ polynucleotides which are differentially expressed between the healthy control and the disease sample by the presence of differences in the hybridization patterns at pre-defined regions [of the solid support]. [page 13]

It should be appreciated that one does not have to be restricted in using ESTs from a particular tissue from which probe RNA or cDNA is obtained[;] rather any or all

ESTs (known or unknown) may be placed on the support. Hybridization will be used [to] form diagnostic patterns or to identify which particular EST is detected. For example, all known ESTs from an organism are used to produce a 'master' solid support to which control sample and disease samples are alternately hybridized. [page 14]

Diagnosis is accomplished by comparing the two hybridization patterns, wherein substantial differences between the first and second hybridization patterns indicate the presence of the selected disease or infection in the animal being tested. Substantially similar first and second hybridization patterns indicate the absence of disease or infection. This[,] like many of the foregoing embodiments[,] may use known or unknown ESTs derived from many libraries. [page 18]

Still another intriguing use of this method is in the area of monitoring the effects of drugs on gene expression, both in laboratories and during clinical trials with animal[s], especially humans. [page 18]

WO 95/20681 ("Comparative Gene Transcript Analysis"), filed in 1994 by Appellants' assignee and published August 3, 1995, has three issued U.S. counterparts: U.S. Pat. Nos. 5,840,484, issued November 24, 1998; 6,114,114, issued September 5, 2000; and 6,303,297, issued October 16, 2001.

The specification describes the use of transcript expression *patterns*, or "images", each comprising multiple pixels of gene-specific information, for diagnosis, for cellular phenotyping, and in toxicology and drug development efforts. The specification describes a plurality of methods for obtaining the requisite expression data -- one of which is microarray hybridization -- and equates the uses of the expression data from these disparate platforms. In particular, and with emphasis added:

The invention provides a "method and system for quantifying the relative abundance of gene transcripts in a biological specimen. . . . [G]ene transcript imaging can be used to detect or diagnose a particular biological state, disease, or condition which is correlated to the relative abundance of gene transcripts in a given cell or population of cells. The invention provides a method for comparing the gene transcript image analysis from two or more different biological specimens in order to distinguish between the two specimens and identify one or more genes which are differentially expressed between the two specimens." [abstract]

"[W]e see each individual gene product as a 'pixel' of information, which relates to the expression of that, and only that, gene. We teach herein [] methods whereby the individual 'pixels' of gene expression information can be combined into a single gene

transcript 'image,' in which each of the individual genes can be visualized simultaneously and allowing relationships between the gene pixels to be easily visualized and understood." [page 2]

"The present invention avoids the drawbacks of the prior art by providing a method to quantify the relative abundance of multiple gene transcripts in a given biological specimen. . . . The method of the instant invention provides for detailed diagnostic comparisons of cell profiles revealing numerous changes in the expression of individual transcripts." [page 6]

"High resolution analysis of gene expression be used directly as a diagnostic profile. . . ." [page 7]

"The method is particularly powerful when more than 100 and preferably more than 1,000 gene transcripts are analyzed." [page 7]

"The invention . . . includes a method of comparing specimens containing gene transcripts." [page 7]

"The final data values from the first specimen and the further identified sequence values from the second specimen are processed to generate ratios of transcript sequences, which indicate the differences in the number of gene transcripts between the two specimens." [i.e., the results yield analogous data to microarrays] [page 8]

"Also disclosed is a method of producing a gene transcript image analysis by first obtaining a mixture of mRNA, from which cDNA copies are made." [page 8]

"In a further embodiment, the relative abundance o the gene transcripts in one cell type or tissue is compared with the relative abundance of gene transcript numbers in a second cell type or tissue in order to identify the differences and similarities." [page 9]

"In essence, the invention is a method and system for quantifying the relative abundance of gene transcripts in a biological specimen. The invention provides a method for comparing the gene transcript image from two or more different biological specimens in order to distinguish between the two specimens. . . ." [page 9]

"[T]wo or more gene transcript images can be compared and used to detect or diagnose a particular biological state, disease, or condition which is correlated to the relative abundance of gene transcripts in a given cell or population of cells." [pages 9 - 10]

"The present invention provides a method to compare the relative abundance of gene transcripts in different biological specimens. . . . This process is denoted herein as gene transcript imaging. The quantitative analysis of the relative abundance for a set of gene transcripts is denoted herein as 'gene transcript image analysis' or 'gene transcript

frequency analysis'. The present invention allows one to obtain a profile for gene transcription in any given population of cells or tissue from any type of organism." [page 11]

"The invention has significant advantages in the fields of diagnostics, toxicology and pharmacology, to name a few." [page 12]

"[G]ene transcript sequence abundances are compared against reference database sequence abundances including normal data sets for diseased and healthy patients. The patent has the disease(s) with which the patient's data set most closely correlates." [page 12]

"For example, gene transcript frequency analysis can be used to different normal cells or tissues from diseased cells or tissues. . . ." [page 12]

"In toxicology, . . . [g]ene transcript imaging provides highly detailed information on the cell and tissue environment, some of which would not be obvious in conventional, less detailed screening methods. The gene transcript image is a more powerful method to predict drug toxicity and efficacy. Similar benefits accrue in the use of this tool in pharmacology. . . ." [page 12]

"In an alternative embodiment, comparative gene transcript frequency analysis is used to differentiate between cancer cells which respond to anti-cancer agents and those which do not respond." [page 12]

"In a further embodiment, comparative gene transcript frequency analysis is used . . . for the selection of better pharmacologic animal models." [page 14]

"In a further embodiment, comparative gene transcript frequency analysis is used in a clinical setting to give a highly detailed gene transcript profile of a diseased state or condition." [page 14]

"An alternate method of producing a gene transcript image includes the steps of obtaining a mixture of test mRNA and providing a representative array of unique probes whose sequences are complementary to at least some of the test mRNAs. Next, a fixed amount of the test mRNA is added to the arrayed probes. The test mRNA is incubated with the probes for a sufficient time to allow hybrids of the test mRNA and probes to form. The mRNA-probe hybrids are detected and the quantity determined." [page 15]

"[T]his research tool provides a way to get new drugs to the public faster and more economically." [page 36]

"In this method, the particular physiologic function of the protein transcript need not be determined to qualify the gene transcript as a clinical marker." [page 38]

"[T]he gene transcript changes noted in the earlier rat toxicity study are carefully evaluated as clinical markers in the followed patients. Changes in the gene transcript image analyses are evaluated as indicators of toxicity by correlation with clinical signs and symptoms and other laboratory results. . . . The . . . analysis highlights any toxicological changes in the treated patients." [page 39]

U.S. Pat. No. 5,569,588 ("Methods for Drug Screening") ("the '588 patent"), issued October 29, 1996, with a priority date of August 1995, describes an expression profiling platform, the "genome reporter matrix", which is different from nucleic acid microarrays. Additionally describing use of nucleic acid microarrays, the patent makes clear that the utility of comparing multidimensional expression datasets is independent of the methods by which such profiles are obtained. The patent speaks clearly to the usefulness of such expression analyses in drug development and toxicology, particularly pointing out that a gene's failure to change in expression level is a useful result. Thus, with emphasis added,

The invention provides "[m]ethods and compositions for modeling the transcriptional responsiveness of an organism to a candidate drug. . . . [The final step of the method comprises] comparing reporter gene product signals for each cell before and after contacting the cell with the candidate drug to obtain a drug response profile which provides a model of the transcriptional responsiveness of said organism to the candidate drug." [abstract]

"The present invention exploits the recent advances in genome science to provide for the rapid screening of large numbers of compounds against a systemic target comprising substantially all targets in a pathway [or] organism." [col. 1]

"The ensemble of reporting cells comprises as comprehensive a collection of transcription regulatory genetic elements as is conveniently available for the targeted organism so as to most accurately model the systemic transcriptional response. Suitable ensembles generally comprise thousands of individually reporting elements; preferred ensembles are substantially comprehensive, i.e. provide a transcriptional response diversity comparable to that of the target organism. Generally, a substantially comprehensive ensemble requires transcription regulatory genetic elements from at least a majority of the organism's genes, and preferably includes those of all or nearly all of the genes. We term such a substantially comprehensive ensemble a genome reporter matrix." [col. 2]

"Drugs often have side effects that are in part due to the lack of target specificity. . . . [A] genome reporter matrix reveals the spectrum of other genes in the genome also

affected by the compound. In considering two different compounds both of which induce the ERG10 reporter, if one compound affects the expression of 5 other reporters and a second compound affects the expression of 50 other reports, the first compound is, a priori, more likely to have fewer side effects." [cols. 2 - 3]

"Furthermore, it is not necessary to know the identity of any of the responding genes." [col. 3]

"[A]ny new compound that induces the same response profile as [a] . . . dominant tubulin mutant would provide a candidate for a taxol-like pharmaceutical." [col. 4]

"The genome reporter matrix offers a simple solution to recognizing new specificities in combinatorial libraries. Specifically, pools of new compounds are tested as mixtures across the matrix. If the pool has any new activity not present in the original lead compound, new genes are affected among the reporters." [col. 4]

"A sufficient number of different recombinant cells are included to provide an ensemble of transcriptional regulatory elements of said organism sufficient to model the transcriptional responsiveness of said organism to a drug. In a preferred embodiment, the matrix is substantially comprehensive for the selected regulatory elements, e.g. essentially all of the gene promoters of the targeted organism are included." [cols. 6 - 7]

"In a preferred embodiment, the basal response profiles are determined. . . . The resultant electrical output signals are stored in a computer memory as genome reporter output signal matrix data structure associating each output signal with the coordinates of the corresponding microtiter plate well and the stimulus or drug. This information is indexed against the matrix to form reference response profiles that are used to determine the response of each reporter to any milieu in which a stimulus may be provided. After establishing a basal response profile for the matrix, each cell is contacted with a candidate drug. The term drug is used loosely to refer to agents which can provoke a specific cellular response. . . . The drug induces a complex response pattern of repression, silence and induction across the matrix The response profile reflects the cell's transcriptional adjustments to maintain homeostasis in the presence of the drug. . . . After contacting the cells with the candidate drug, the reporter gene product signals from each of said cells is again measured to determine a stimulated response profile. The basal o[r] background response profile is then compared with . . . the stimulated response profile to identify the cellular response profile to the candidate drug." [cols. 7 - 8]

"In another embodiment of the invention, a matrix [i.e., array] of hybridization probes corresponding to a predetermined population of genes of the selected organism is used to specifically detect changes in gene transcription which result from exposing the selected organism or cells thereof to a candidate drug. In this embodiment, one or more

cells derived from the organism is exposed to the candidate drug in vivo or ex vivo under conditions wherein the drug effects a change in gene transcription in the cell to maintain homeostasis. Thereafter, the gene transcripts, primarily mRNA, of the cell or cells is isolated . . . [and] then contacted with an ordered matrix [array] of hybridization probes, each probe being specific for a different one of the transcripts, under conditions where each of the transcripts hybridizes with a corresponding one of the probes to form hybridization pairs. The ordered matrix of probes provides, in aggregate, complements for an ensemble of genes of the organism sufficient to model the transcriptional responsiveness of the organism to a drug. . . . The matrix-wide signal profile of the drug-stimulated cells is then compared with a matrix-wide signal profile of negative control cells to obtain a specific drug response profile." [col. 8]

"The invention also provides means for computer-based qualitative analysis of candidate drugs and unknown compounds. A wide variety of reference response profiles may be generated and used in such analyses." [col. 8]

"Response profiles for an unknown stimulus (e.g. new chemicals, unknown compounds or unknown mixtures) may be analyzed by comparing the new stimulus response profiles with response profiles to known chemical stimuli." [col. 9]

"The response profile of a new chemical stimulus may also be compared to a known genetic response profile for target gene(s)." [col. 9]

The August 11, 1997 press release from the '588 patent's assignee, Acacia Biosciences (now part of Merck) (reference "h" attached hereto), and the September 15, 1997 news report by Glaser, "Strategies for Target Validation Streamline Evaluation of Leads," *Genetic Engineering News* (reference "4i" attached hereto), attest the commercial value of the methods and technology described and claimed in the '588 patent.

WO 97/13877 ("Measurement of Gene Expression Profiles in Toxicity Determinations"), published April 17, 1997, describes an expression profiling technology differing somewhat from the use of cDNA microarrays and differing from the genome reporter matrix of the '588 patent; but the use of the data is analogous. As per its title, the reference describes use of expression profiling in toxicity determinations. In particular, and with emphasis added:

"[T]he invention relates to a method for detecting and monitoring changes in gene expression patterns in in vitro and in vivo systems for determining the toxicity of drug candidates." [Field of the invention]

"An object of the invention is to provide a new approach to toxicity assessment based on an examination of gene expression patterns, or profiles, in in vitro or in vivo test systems." [page 3]

"Another object of the invention is to provide a rapid and reliable method for correlating gene expression with short term and long term toxicity in test animals." [page 3]

"The invention achieves these and other objects by providing a method for massively parallel signature sequencing of genes expressed in one or more selected tissues of an organism exposed to a test compound. An important feature of the invention is the application of novel . . . methodologies that permit the formation of gene expression profiles for selected tissues Such profiles may be compared with those from tissues of control organisms at single or multiple time points to identify expression patterns predictive of toxicity." [page 3]

"As used herein, the terms 'gene expression profile,' and 'gene expression pattern' which is used equivalently, means a frequency distribution of sequences of portions of cDNA molecules sampled from a population of tag-cDNA conjugates. . . . Preferably, the total number of sequences determined is at least 1000; more preferably, the total number of sequences determined in a gene expression profile is at least ten thousand." [page 7]

"The invention provides a method for determining the toxicity of a compound by analyzing changes in the gene expression profiles in selected tissues of test organisms exposed to the compound. . . . Gene expression profiles derived from test organisms are compared to gene expression profiles derived from control organisms. . . ." [page 7]

Therefore, the potential benefit to the public, in terms of lives saved and reduced health care costs, are enormous. Evidence of the benefits of this information include:

- In 1999, CV Therapeutics, an Incyte collaborator, was able to use Incyte gene expression technology, information about the structure of a known transporter gene, and chromosomal mapping location, to identify the key gene associated with Tangier disease. This discovery took place over a matter of only a few weeks, due to the power of these new genomics technologies. The discovery received an award from the American Heart Association as one of the top 10 discoveries associated with heart disease research in 1999.
- In an April 9, 2000, article published by the Bloomberg news service, an Incyte customer stated that it had reduced the time associated with target discovery and validation from 36 months to 18 months, through use of Incyte's genomic information database. Other Incyte customers have privately reported similar experiences. The

implications of this significant saving of time and expense for the number of drugs that may be developed and their cost are obvious.

- In a February 10, 2000, article in the *Wall Street Journal*, one Incyte customer stated that over 50 percent of the drug targets in its current pipeline were derived from the Incyte database. Other Incyte customers have privately reported similar experiences. By doubling the number of targets available to pharmaceutical researchers, Incyte genomic information has demonstrably accelerated the development of new drugs.

Because the Patent Examiner failed to address or consider the “well-established” utilities for the claimed invention in toxicology testing, drug development, and the diagnosis of disease, the Examiner’s rejections should be overturned regardless of their merit.

C. Objective evidence corroborates the utilities of the claimed invention

There is, in fact, no restriction on the kinds of evidence a Patent Examiner may consider in determining whether a “real-world” utility exists. “Real-world” evidence, such as evidence showing actual use or commercial success of the invention, can demonstrate conclusive proof of utility.

Raytheon v. Roper, 220 USPQ2d 592 (Fed. Cir. 1983); *Nestle v. Eugene*, 55 F.2d 854, 856, 12 USPQ 335 (6th Cir. 1932). Indeed, proof that the invention is made, used or sold by any person or entity other than the patentee is conclusive proof of utility. *United States Steel Corp. v. Phillips Petroleum Co.*, 865 F.2d 1247, 1252, 9 USPQ2d 1461 (Fed. Cir. 1989).

Over the past several years, a vibrant market has developed for databases containing the sequences of all expressed genes (along with the polypeptide translations of those genes), in particular genes having medical and pharmaceutical significance such as the instant sequence. (Note that the value in these databases is enhanced by their completeness, but each sequence in them is independently valuable.) The databases sold by Appellants’ assignee, Incyte, include exactly the kinds of information made possible by the claimed invention, such as tissue and disease associations. Incyte sells its database containing millions of sequences throughout the scientific community, including to pharmaceutical companies who use the information to develop new pharmaceuticals.

Both Incyte’s customers and the scientific community have acknowledged that Incyte’s databases have proven to be valuable in, for example, the identification and development of drug candidates. Page et al., in discussing the identification and assignment of candidate drug targets, state

that “rapid identification and assignment of candidate targets and markers represents a huge challenge ... [t]he process of annotation is similarly aided by the quantity and richness of the sequence specific databases that are currently available, both in the public domain and in the private sector (e.g. those supplied by Incyte Pharmaceuticals)” Page, M.J. et al., “Proteomics: a major new technology for the drug discovery process,” *Drug Discov. Today* 4:55-62 (1999) (Reference No. 11), see page 58, col. 2). As Incyte adds information to its databases, including the information that can be generated only as a result of Incyte’s invention of the claimed polynucleotide and its use of that polynucleotide on cDNA microarrays, the databases become even more powerful tools. Thus the claimed invention adds more than incremental benefit to the drug discovery and development process.

III. The Patent Examiner’s rejections are without merit

Rather than responding to the evidence demonstrating utility, the Examiner attempts to dismiss it altogether by arguing that the disclosed and well-established utilities for the claimed polynucleotide are not “specific, substantial, and credible” utilities. (Office Action at page 3). The Examiner is incorrect both as a matter of law and as a matter of fact.

A. Because the uses of claimed polynucleotides in toxicology testing, drug discovery, and disease diagnosis are practical uses beyond mere study of the invention itself, the claimed invention has substantial utility

The PTO’s rejection of the claims at issue is tantamount to a rejection based on the grounds that the use of an invention as a tool for research is not a “substantial” use. Because the PTO’s rejection assumes a substantial overstatement of the law, and is incorrect in fact, it must be overturned.

There is no authority for the proposition that use as a tool for research is not a substantial utility. Indeed, the Patent Office has recognized that just because an invention is used in a research setting does not mean that it lacks utility (Section § 2107.01 of the Manual of Patent Examining Procedure, 8th Edition, August 2001, under the heading I. Specific and Substantial Requirements, Research Tools):

Many research tools such as gas chromatographs, screening assays, and nucleotide sequencing techniques have a clear, specific and unquestionable utility (e.g., they are useful in analyzing compounds). An assessment that focuses on whether an invention is useful only in a research setting thus does not address whether the specific invention is

in fact “useful” in a patent sense. Instead, Office personnel must distinguish between inventions that have a specifically identified utility and inventions whose specific utility requires further research to identify or reasonably confirm.

The Patent Office’s actual practice has been, at least until the present, consistent with that approach. It has routinely issued patents for inventions whose only use is to facilitate research, such as DNA ligases. These are acknowledged by the PTO’s Training Materials themselves to be useful, as well as DNA sequences used, for example, as markers.

Only a limited subset of research uses are not “substantial” utilities: those in which the only known use for the claimed invention is to be an **object** of further study, thus merely inviting further research. This follows from *Brenner*, in which the U.S. Supreme Court held that a process for making a compound does not confer a substantial benefit where the only known use of the compound was to be the object of further research to determine its use. *Id.* at 535. Similarly, in *Kirk*, the Court held that a compound would not confer substantial benefit on the public merely because it might be used to synthesize some other, unknown compound that would confer substantial benefit. *Kirk*, 376 F.2d at 940, 945 (“What appellants are really saying to those in the art is take these steroids, experiment, and find what use they do have as medicines.”). Nowhere do those cases state or imply, however, that a material cannot be patentable if it has some other beneficial use in research.

Applicants’ Showing of Facts Overcomes The Examiner’s Concern That Applicants’ Invention Lacks “Specific Utility”

The Examiner alleges that “the claimed invention is not supported by either a specific and substantial asserted utility or a well-established utility”(Office Action, page 3.)

Appellants' submission of additional facts overcomes this concern. Those facts demonstrate that, far from applying **regardless** of the specific properties of the claimed polynucleotides, the utility of Appellants' claimed polynucleotides as gene-specific probes **depends upon** specific properties of the polynucleotides, that is, their nucleic acid sequences.

“[E]ach probe on . . . [a “high density spotted microarray[]”], with careful design and sufficient length, and with sufficiently stringent hybridization and wash conditions, **binds specifically** and with

minimal cross-hybridization, to the probe's cognate transcript”¹; “[e]ach gene included as a probe on a microarray provides *a signal that is specific to the cognate transcript*, at least to a first approximation.”² Accordingly, “each additional probe makes an additional transcript newly detectable by the microarray, increasing the detection range, and thus versatility, of this analytical device for gene expression profiling”³; equally, “[e]ach new gene-specific probe added to a microarray thus increases the number of genes detectable by the device, increasing the resolving power of the device.”⁴

Although not required for present purposes, it would be appropriate to state on the record here that the specificity of nucleic acid hybridization was well-established far earlier than the development of high density spotted microarrays in 1995, and indeed is the well-established underpinning of many, perhaps most, molecular biological techniques developed over the past 30 - 40 years.

IV. By requiring the patent applicant to assert a particular or unique utility, the Patent Examination Utility Guidelines and Training Materials applied by the Patent Examiner misstate the law

There is an additional, independent reason to overturn the rejections: to the extent the rejections are based on Revised Interim Utility Examination Guidelines (64 FR 71427, December 21, 1999), the final Utility Examination Guidelines (66 FR 1092, January 5, 2001) and/or the Revised Interim Utility Guidelines Training Materials (USPTO Website www.uspto.gov, March 1, 2000), the Guidelines and Training Materials are themselves inconsistent with the law.

The Training Materials, which direct the Examiners regarding how to apply the Utility Guidelines, address the issue of specificity with reference to two kinds of asserted utilities: “specific” utilities which meet the statutory requirements, and “general” utilities which do not. The Training Materials define a “specific utility” as follows:

A [specific utility] is *specific* to the subject matter claimed. This contrasts to *general* utility that would be applicable to the broad class of invention. For example, a claim to a polynucleotide whose use is disclosed simply as “gene probe” or “chromosome marker” would not be

¹ Declaration of Dr. John C. Rockett, ¶ 10(i), emphasis added.

² Declaration of Dr. Vishwanath R. Iyer, ¶ 7 (emphasis added). See the footnote at ¶ 7 for a slightly more “nuanced” view.

³ Declaration of Dr. John C. Rockett, ¶ 10(ii).

⁴ Declaration of Dr. Vishwanath R. Iyer, ¶ 7.

considered to be specific in the absence of a disclosure of a specific DNA target. Similarly, a general statement of diagnostic utility, such as diagnosing an unspecified disease, would ordinarily be insufficient absent a disclosure of what condition can be diagnosed.

The Training Materials distinguish between “specific” and “general” utilities by assessing whether the asserted utility is sufficiently “particular,” *i.e.*, unique (Training Materials at page 52) as compared to the “broad class of invention.” (In this regard, the Training Materials appear to parallel the view set forth in Stephen G. Kunin, Written Description Guidelines and Utility Guidelines, 82 J.P.T.O.S. 77, 97 (Feb. 2000) (“With regard to the issue of specific utility the question to ask is whether or not a utility set forth in the specification is *particular* to the claimed invention.”)).

Such “unique” or “particular” utilities never have been required by the law. To meet the utility requirement, the invention need only be “practically useful,” *Natta*, 480 F.2d 1 at 1397, and confer a “specific benefit” on the public. *Brenner*, 383 U.S. at 534. Thus, incredible “throwaway” utilities, such as trying to “patent a transgenic mouse by saying it makes great snake food,” do not meet this standard. Karen Hall, Genomic Warfare, The American Lawyer 68 (June 2000) (quoting John Doll, Chief of the Biotech Section of USPTO).

This does not preclude, however, a general utility, contrary to the statement in the Training Materials where “specific utility” is defined (page 5). Practical real-world uses are not limited to uses that are unique to an invention. The law requires that the practical utility be “definite,” not particular. *Montedison*, 664 F.2d at 375. Appellants are not aware of any court that has rejected an assertion of utility on the grounds that it is not “particular” or “unique” to the specific invention. Where courts have found utility to be too “general,” it has been in those cases in which the asserted utility in the patent disclosure was not a practical use that conferred a specific benefit. That is, a person of ordinary skill in the art would have been left to guess as to how to benefit at all from the invention. In *Kirk*, for example, the CCPA held the assertion that a man-made steroid had “useful biological activity” was insufficient where there was no information in the specification as to how that biological activity could be practically used. *Kirk*, 376 F.2d at 941.

The fact that an invention can have a particular use does not provide a basis for requiring a particular use. See *In re Brana*, 51 F.3d 1560, 1566; 34 USPQ2d 1436 (Fed. Cir. 1995) (disclosure

describing a claimed antitumor compound as being homologous to an antitumor compound having activity against a “particular” type of cancer was determined to satisfy the specificity requirement). “Particularity” is not and never has been the *sine qua non* of utility; it is, at most, one of many factors to be considered.

Broad classes of inventions can satisfy the utility requirement so long as a person of ordinary skill in the art would understand how to achieve a practical benefit from knowledge of the class. Only classes that encompass a significant portion of nonuseful members would fail to meet the utility requirement. *Montedison*, 664 F.2d at 374-75.

The Training Materials fail to distinguish between broad classes that convey information of practical utility and those that do not, lumping all of them into the latter, unpatentable category of “general” utilities. As a result, the Training Materials paint with too broad a brush. Rigorously applied, they would render unpatentable whole categories of inventions that heretofore have been considered to be patentable and that have indisputably benefitted the public, including the claimed invention. See *supra* § II.B. Thus the Training Materials cannot be applied consistently with the law.

For all of the above reasons, applicants submit that the claimed invention, at least as recited in claims 1-5 and 11-14, is supported by both specific and substantial asserted utilities, a well as well established utilities, and withdrawal of the rejection of claims under 35 U.S.C. § 101 is therefore requested.

35 U.S.C. § 112, First Paragraph, Rejection of Claims 1-5 and 11-14

The Examiner has also rejected claims 1-5 and 11-14 under 35 U.S.C. § 112, first paragraph, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art would not know how to use the claimed invention.

Applicants Response

To the extent that the rejection under 35 U.S.C. § 112, first paragraph, is based on the

improper allegation of lack of patentable utility under 35 U.S.C. § 101 for the reasons set forth by applicant above, it fails for the same reasons, and withdrawal of the rejection is therefore requested.

35 U.S.C. § 112, Second Paragraph, Rejection of Claims 1-5 and 11-14

The Examiner has rejected claims 1-5 and 11-14 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention.

The Examiner stated that claims 2 and 3 are rejected over the recitation of the phrases "differential expression of the cDNAs is greater than 2.5" and "differential expression of the cDNAs is greater than 3.0", respectively. It is unclear how the numbers 2.5 and 3.0 are derived, what the units of expression and if it is a ratio, what is the standard compared to which these numbers have been calculated. In the absence of any definition of numerical differential expression of the cDNAs or the standard of comparison of the claim, it is not clear what is claimed.

Applicants Response

Applicants disagree that the phrase "differential expression" is not sufficiently defined in the specification, nor the means by which the numerical values for differential expression are determined.

"Differential Expression" is specifically defined at page 5, lines 27-29 as:

refers to an increased, upregulated or present, or decreased, downregulated or absent, gene expression as detected by the absence, presence, or at least two-fold changes in the amount of transcribed messenger RNA or translated protein in a sample.

Thus, the reference to "two-fold changes" clearly implies a ratio of two observations. The specification further provides at page 2, lines 30-32 that "The present invention provides a combination comprising a plurality of cDNAs for use in detecting changes in expression of genes encoding proteins associated with adipocyte differentiation.", clearly indicating that the differential expression compares gene expression between undifferentiated and differentiated adipocytes. The specification further discloses at page 7, lines 29-30 that "The present invention identifies cDNAs which are differentially expressed during the conversion of preadipocytes to adipocytes". Clearly, therefore, the specification defines "differential expression" in the instant case as the measurement of mRNA expression in

differentiated adipocytes compared with that in preadipocytes and that the expression is determined in terms of a ratio between the two observations.

The specification then describes at page 26, lines 8-13 how the samples to be compared for mRNA expression were prepared for analysis by culturing preadipocytes and inducing differentiation into mature adipocytes by culture in medium containing human insulin and a PPAR γ agonist. The specification then goes on to describe at pages 26-27 how mRNA samples from the two sample types were labeled for detection (**Isolation and Labeling of Sample Polynucleotides**); The methods of hybridization, detection, and quantitation of mRNA expression at pages 27-28 (**VII Hybridization and Detection**); and the analysis of the results in terms of minimal criteria for differential expression (page 28, **Data Analysis and Results**). Clearly then, the specification defines differential expression, the means of quantitatively determining its value, and the standard for comparison. The claims are therefore clear and definite, and withdrawal of the rejection of claims 2 and 3 under 35 U.S.C. § 112, second paragraph is therefore requested.

35 U.S.C. § 102(b), Rejection of Claim 1

The Examiner has rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by Turner et al. (Blood (1991), Vol 78(Suppl. 1), page 279). The Examiner stated that the rejection is based on the fact that, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In this case, the Examiner stated, a cDNA having SEQ ID NO:1 has clearly been taught by Turner et al. (Gen Bank Accession Number U70136; bases 1 to 5041). The intended use of the present claim, i.e., differential expression during adipocyte differentiation is not given patentable weight because SEQ ID NO:1, as taught by Turner et al., inherently possesses the same claimed function as it is structurally identical.

Applicants Response

Applicants point out that claim 1 is a combination claim drawn to a plurality of cDNA

sequences, SEQ ID NOs:1-71. As such the claimed combination is novel if at least one sequence is not found in the prior art. Whether or not SEQ ID NO:1 is taught by Turner et al., the combination is still novel and patentable if any other sequence in the claimed combination is novel and non-obvious. Since the Examiner has searched SEQ ID NOs:1, 3 and 8, and has cited no art against SEQ ID NO:3 or SEQ ID NO:8, these sequences have presumably been found free of the prior art, and the combination as recited in claim 1 is therefore novel and patentable. Turner et al does not teach or suggest SEQ ID NOs:3 or 8 or their use in detecting adipocyte differentiation, and withdrawal of the rejection of claim 1 as anticipated by Turner et al. is therefore requested.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding objections/rejections. Early notice to that effect is earnestly solicited. Applicants further request that upon allowance of claim 1, that claims 6-10 be rejoined and examined as methods of use of the combination of claim 1 that depend from and are of the same scope as claim 1 in accordance with *in Re Ochiai* and the MPEP § 821.04.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned at the number listed below.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,

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Enclosures:

1. the Declaration of John C. Rockett, Ph.D., under 37 C.F.R. § 1.132, with Exhibits A-Q.
2. the Declaration of Tod Bedilion, Ph.D., under 37 C.F.R. § 1.132 .
3. the Declaration of Vishwanath R. Iyer, Ph.D., under 37 C.F.R. § 1.132 with Exhibits A-E.
4. Ten (10) references published before the July 28, 2000 filing date of the Schebye '470 application,:
 - a) PCT application WO 95/21944, SmithKline Beecham Corporation, Differentially expressed genes in healthy and diseased subjects (August 17, 1995) (Reference No. 1)
 - b) PCT application WO 95/20681, Incyte Pharmaceuticals, Inc., Comparative gene transcript analysis (August 3, 1995) (Reference No. 2)
 - c) M. Schena et al., Quantitative monitoring of gene expression patterns with a complementary DNA microarray, Science 270:467-470 (October 20, 1995) (Reference No. 3)
 - d) PCT application WO 95/35505, Stanford University, Method and apparatus for fabricating microarrays of biological samples (December 28, 1995) (Reference No. 4)
 - e) U.S. Pat. No. 5,569,588, M. Ashby et al., Methods for drug screening (October 29, 1996) (Reference No. 5)
 - f) R. A. Heller al., Discovery and analysis of inflammatory disease-related genes using cDNA microarrays, Proc. Natl. Acad. Sci. USA 94:2150 - 2155 (March 1997) (Reference No. 6)
 - g) PCT application WO 97/13877, Lynx Therapeutics, Inc., Measurement of gene expression profiles in toxicity determinations (April 17, 1997) (Reference No. 7)
 - h) Acacia Biosciences Press Release (August 11, 1997) (Reference No. 8)
 - i) V. Glaser, Strategies for Target Validation Streamline Evaluation of Leads, Genetic Engineering News (September 15, 1997) (Reference No. 9)
 - j) J. L. DeRisi et al., Exploring the metabolic and genetic control of gene expression on a genomic scale, Science 278:680 - 686 (October 24, 1997) (Reference No. 10)
5. John C. Rockett, et. al., Differential gene expression in drug metabolism and toxicology: practicalities, problems, and potential, Xenobiotica 29:655-691 (1999) (Reference No.12).
6. Lashkari et al., Whole genome analysis: Experimental access to all genome sequenced segments through larger-scale efficient oligonucleotide synthesis and PCR, Proc. Nat. Acad. Sci. 94:8945-8947 (1997)
7. Emile F Nuwaysir, et al., Microarrays and toxicology: The advent of toxicogenomics, Molecular Carcinogenesis 24:153-159 (1999) (Reference No. 13).

8. Sandra Steiner and N. Leigh Anderson, Expression profiling in toxicology -- potentials and limitations, Toxicology Letters 112-13:467-471 (2000) (Reference No. 14).
9. John C. Rockett and David J. Dix, Application of DNA arrays to toxicology, 107 Environ. Health Perspec. 107:681-685 (1999).
10. Email from the primary investigator on the Nuwaysir paper, Dr. Cynthia Afshari, to an Incyte employee, dated July 3, 2000, as well as the original message to which she was responding (Reference No. 15).
11. Page, M.J., Amess, B., Rohlff, C., Stubberfield, C., Parekh, R., Proteomics: a major new technology for the drug discovery process, Drug Discov. Today 4:55-62 (1999) (Reference No. 16).

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INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(51) International Patent Classification 6: C12Q 1/68		AI	(11) International Publication Number: WO 95/21944 (43) International Publication Date: 17 August 1995 (17.08.95)
(21) International Application Number: PCT/US95/01863		(74) Agents: JERVIS, Herbert, H. et al.; SmithKline Beecham Corporation, Corporate Intellectual Property, UW2220, 709 Swedeland Road, P.O. Box 1539, King of Prussia, PA 19406-0939 (US).	
(22) International Filing Date: 14 February 1995 (14.02.95)		(81) Designated States: JP, US, European patent (AT, BE, CH, DE, DK, ES, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE).	
(30) Priority Data: 08/195,485 14 February 1994 (14.02.94) US		Published With international search report.	
(60) Parent Application or Grant			
(63) Related by Continuation			
US 08/195,485 (CIP)			
Filed on 14 February 1994 (14.02.94)			
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(54) Title: DIFFERENTIALLY EXPRESSED GENES IN HEALTHY AND DISEASED SUBJECTS

(57) Abstract: The present invention involves methods and compositions for identifying genes which are differentially expressed in a normal healthy animal and an animal having a selected disease or infection, and methods for diagnosing diseases or infections characterized by the presence of those genes, despite the absence of knowledge about the gene or its function. The methods involve the use of a composition suitable for use in hybridization which consists of a solid surface on which is immobilized at pre-defined regions thereon a plurality of defined oligonucleotide/polynucleotide sequences for hybridization. Each sequence comprises a fragment of an EST isolated from an identified DNA library prepared from tissue or cell samples of a healthy animal, an animal with a selected disease or infection, and any combination thereof. Differences in hybridization patterns produced through use of this composition and the specified methods enable diagnosis of disease based on differential expression of genes of unknown function, and enable the identification of those genes and the proteins encoded thereby.

directive 70/276/EEC concerning safety in the general area of nuclear installations, particularly on nuclear fissile materials, by application of said Directive in case of radiating air, with a specific characteristic of the sequence, which gives the so-called *radiating air*, characterized by a high concentration of radioactive material.

For more information on the g_2 group, see the [Lie group page](#) on Wikipedia.

The main purpose of "Gard" was to help the people of regions such as the Punjab to grow their own food and, especially, the wheat crop, by giving them the best seeds and the best growing and harvesting methods. The "Gard" was a self-sufficient unit, growing its own food, and, in turn, giving the people of the region a better life. The "Gard" was a self-sufficient unit, growing its own food, and, in turn, giving the people of the region a better life.

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differentially expressed genes in healthy and diseased subjects
progeny and/or offspring

The phrase "differentially expressed" refers to those situations in

Cross Reference to Related Applications:

5 **This application is a continuation-in-part application of U.S. Serial No. 08/195,485 filed February 14, 1994, the contents of which are incorporated herein by reference.** The subject matter of this application relates to differentially expressed chemically altered or modified genes and to cloning, analysis and use of such genes.

10 **Field of the Invention** The present invention relates to the use of immobilized oligonucleotide/polynucleotide or polynucleotide sequences for the identification, sequencing and characterization of genes which are implicated in disease, infection, or development and the use of such identified genes and the proteins encoded thereby in diagnosis, prognosis, therapy and drug discovery.

15 **Background of the Invention**

Identification, sequencing and characterization of genes, especially human genes, is a major goal of modern scientific research. By identifying genes, determining their sequences and characterizing their biological function, it is possible to employ recombinant DNA technology to produce large quantities of valuable "gene products", e.g., proteins and peptides. Additionally, knowledge of gene sequences can provide a key to diagnosis, prognosis and treatment of a variety of disease states in plants and animals which are characterized by inappropriate expression and/or repression of selected gene(s) or by the influence of external factors, e.g., carcinogens or teratogens, on gene function. The term disease-associated genes(s) is used herein in its broadest sense to mean not only genes associated with classical inherited diseases, but also those associated with genetic predisposition to disease as well as infectious or pathogenic states resulting from gene expression by infectious agents or the effect on host cell gene expression by the presence of such a pathogen or its products. Locating disease-associated genes will permit the development of diagnostic and prognostic reagents and methods, as well as possible therapeutic regimens, and the discovery of new drugs for treating or preventing the occurrence of such diseases.

35 Methods have been described for the identification of certain novel gene sequences, referred to as Expressed Sequence Tags (EST) [see, e.g., Adams et al, Science, 252:1651-1656 (1991); and International Patent Application No. WO93/00353, published January 7, 1993]. Conventionally, an EST is a specific cDNA polynucleotide sequence, or tag, about 150 to 400 nucleotides in length, derived from

a messenger RNA molecule by reverse transcription, which is a marker for, and component of, a human gene actually transcribed *in vivo*. However, as used herein an EST also refers to a genomic DNA fragment derived from an organism, such as a microorganism, the DNA of which lacks intron regions. (e.g., 60,000 cDNA fragments 5 A variety of techniques have been described for identifying particular gene sequences on the basis of their gene products. For example, several techniques are described in the art [see, e.g., International Patent Application No. WO91/07087, published May 30, 1991]. Additionally, known methods exist for the amplification of desired sequences [see, e.g., International Patent Application No. WO91/17271, published November 14, 1991, among others]. 10 Fragment 6 15 However, at present, there exist no established methods for filling the need in the art for methods and reagents which employ fragments of differentially expressed genes of known, unknown (or previously unrecognized) function or consequence to provide diagnostic and therapeutic methods and reagents for diagnosis and treatment of disease or infection, which conditions are characterized by such genes and gene products. It should be appreciated that it is the expression differences that are diagnostic of the altered state (e.g., predisease, disease, pathogenic, progression or infectious). Such genes associated with the altered state are likely to be the targets of drug discovery, whether the genes are the cause or the effect of the 20 condition, identification of such genes provides insight into which gene expression needs to be re-altered in order to reestablish the healthy state.

Summary of the Invention

In one aspect, the invention provides methods for identifying gene(s) 25 which are differentially expressed, for example, in a normal healthy organism and an organism having a disease. The method involves producing and comparing hybridization patterns formed between samples of expressed mRNA or cDNA polynucleotide sequences obtained from either analogous cells, tissues or organs of a healthy organism and a diseased organism and a defined set of 30 oligonucleotide/polynucleotide/polynucleotide sequence probes from either a healthy organism or a diseased organism immobilized on a support. Those defined oligonucleotide/polynucleotide sequences are representative of the total expressed genetic component of the cells, tissues, organs or organism as defined the collection of partial cDNA sequences (ESTs). The differences between the hybridization 35 patterns permit identification of those particular EST or gene-specific oligonucleotide/polynucleotide sequences associated with differential expression, and the identification of the EST permits identification of the clone from which it was

derived and using ordinary skill further cloning and, if desired, sequencing of the full-length cDNA and genomic counterpart, i.e., gene, from which it was obtained. In another aspect, the invention provides methods substantially similar to those described above, but which permit identification of those gene(s) of a pathogen which are expressed in any biological sample of an infected organism based on comparative hybridization of RNA/cDNA samples derived from a healthy versus infected organism, hybridized to an oligonucleotide/polynucleotide set representative of the gene coding complement of the pathogen of interest. In another aspect, the invention provides methods substantially similar to those described above, but which permit identification of those ESTs-specific oligonucleotide/polynucleotide sequences of host gene(s) which represent genes being differentially expressed/ altered in expression by the disease state, or infection and are expressed in any biological sample of an infected organism based on comparative hybridization of RNA/cDNA samples derived from a healthy versus infected organism of interest.

In a further aspect, the methods described above and in detail below, also provide methods for diagnosis of diseases or infections characterized by differentially expressed genes, the expression of which has been altered as a result of infection by the pathogen or disease causing agent in question. All identified differences provide the basis for diagnostic testing be it the altered expression of endogenous genes or the patterned expression of the genes of the infecting organism. Such patterns of altered expression are defined by comparing RNA/cDNA from the two states hybridized against a panel of oligonucleotide/polynucleotides representing the expressed gene component of a cell, tissue, organ or organism as defined by its collection of ESTs.

Yet a further aspect of this invention provides a composition suitable for use in hybridization, which comprises a solid surface on which is immobilized at pre-defined regions thereon a plurality of defined oligonucleotide/polynucleotide sequences for hybridization, each sequence comprising a fragment of an EST isolated from a cDNA or DNA library prepared from at least one selected tissue or cell sample of a healthy (i.e., pre-disease state) animal, at least one analogous sample of an animal having a disease, at least one analogous sample of an animal infected with a pathogen or the pathogen itself, or any combination or multiple combinations thereof.

An additional aspect of the invention provides an isolated gene sequence which is differentially expressed in a normal healthy animal and an animal having a disease, and is identified by the methods above. Similarly, an isolated pathogen gene sequence which is expressed in tissue or cell samples of an infected animal can be identified by the methods above.

Yet another aspect of the invention is that it provides not only a means for a static diagnostic but also provides a means for carrying out the procedure over time to measure disease progression as well as monitoring the efficacy of disease treatment regimes including an toxicological effects thereof.

5 Another aspect of the invention is an isolated protein produced by expression of the gene sequences identified above. Such proteins are useful in therapeutic compositions or diagnostic compositions, or as targets for drug development.

10 Other aspects and advantages of the present invention are described further in the following detailed description of the preferred embodiments thereof.

Detailed Description of the Invention

The present invention meets the unfulfilled needs in the art by providing methods for the identification and use of gene fragments and genes, even those of unknown full length sequence and unknown function, which are differentially expressed in a healthy animal and in an animal having a specific disease or infection by use of ESTs derived from DNA libraries of healthy and/or diseased/infected animals. Employing the methods of this invention permits the resulting identification and isolation of such genes by using their corresponding ESTs and thereby also permits the production of protein products encoded by such genes. The genes themselves and/or protein products, if desired, may be employed in the diagnosis or therapy of the disease or infection with which the genes are associated, and in the development of new drugs therefor.

It has been appreciated that one or more differentially identified EST or gene-specific oligonucleotide/polynucleotides define a pattern of differentially expressed genes diagnostic of a predisease, disease or infective state. A knowledge of the specific biological function of the EST is not required only that the ESTs identifies a gene or genes whose altered expression is associated reproducibly with the predisease, disease or infectious state. The differences permit the identification of gene products altered in their expression by the disease and represent those products most likely to be targets of therapeutic intervention. Similarly, the product may be of the infecting organism itself and also be an effective target of intervention.

1. Definitions.

35 Several words and phrases used throughout this specification are defined as follows:

As used herein, the term "gene" refers to the genomic nucleotide sequence from which a cDNA sequence is derived, which cDNA produces an EST, as

described below. The term "gene" classically refers to the genomic sequence, which, upon processing, can produce different cDNAs, e.g., by splicing events. However, for ease of reading, any full-length counterpart cDNA sequence which gives rise to an EST will also be referred to by shorthand herein as a 'gene'.

5 The term "organism" includes without limitation, microbes, plants and animals.

10 The term "animal" is used in its broadest sense to include all members of the animal kingdom, including humans. It should be understood, however, that according to this invention the same species of animal which provides the biological sample also is the source of the defined immobilized oligonucleotide/polynucleotides as defined below.

15 The term "pathogen" is defined herein as any molecule or organism which is capable of infecting an animal or plant and replicating its nucleic acid sequences in the cells or tissues of that animal or plant. Such a pathogen is generally associated with a disease condition in the infected animal or plant. Such pathogens may include viruses, which replicate intra- or extra-cellularly, or other organisms, such as bacteria, fungi or parasites, which generally infect tissues or the blood. Certain pathogens or microorganisms are known to exist in sequential and distinguishable stages of development, e.g., latent stages, infective stages, and stages

20 which cause symptomatic diseases. In these different stages, the pathogens are anticipated to express differentially certain genes and/or turn on or off host cell gene expression.

25 As used herein, the term "disease" or "disease state" refers to any condition which deviates from a normal or standardized healthy state in an organism of the same species in terms of differential expression of the organism's genes. In other words, a disease state can be any illness or disorder be it of genetic or environmental origin, for example, an inherited disorder such as certain breast cancers, or a disorder which is characterized by expression of gene(s) normally in an inactive, 'turned off' state in a healthy animal, or a disorder which is characterized by

30 under-expression or no expression of gene(s) which is normally activated or 'turned on' in a normal healthy animal. Such differential expression of genes may also be detected in a condition caused by infection, inflammation, or allergy, a condition caused by development or aging of the animal, a condition caused by administration of a drug or exposure of the animal to another agent, e.g., nutrition, which affects

35 gene expression. Essentially, the methods described herein can be adapted to detect differential gene expression resulting from any cause, by manipulation of the defined oligonucleotide/polynucleotides and the samples tested as described below. The

concept of disease or disease state also includes its temporal aspects in terms of progression and treatment. The phrase "solid support" refers to any support used for the hybridization. The phrase "differentially expressed" refers to those situations in which a gene transcript is found in differing numbers of copies, or in activated vs. inactivated states, in different cell types or tissue types of an organism, having a selected disease as contrasted to the levels of the gene transcript found in the same cells or tissues of a healthy organism. Genes may be differentially expressed in differing states of activation in microorganisms or pathogens in different stages of development. For example, multiple copies of gene transcripts may be found in an organism having a selected disease, while only one, or significantly fewer copies, of the same gene transcript are found in a healthy organism, or vice-versa.

As used herein, the term "solid support" refers to any known substrate which is useful for the immobilization of large numbers of oligonucleotide/polynucleotide sequences by any available method to enable detectable hybridization of the immobilized oligonucleotide/polynucleotide sequences with other polynucleotide sequences in a sample. Among a number of available solid supports, one desirable example is the supports described in International Patent Application No. WO91/07087, published May 30, 1991. Also useful are supports such as but not limited to nitrocellulose, mylein, glass, silica and Pall Biodyne C®. It is also anticipated that improvements yet to be made to conventional solid supports may also be employed in this invention.

The term "surface" means any generally two-dimensional structure on a solid support to which the desired oligonucleotide/polynucleotide sequence is attached or immobilized. A surface may have steps, ridges, kinks, terraces and the like.

As used herein, the term "predefined region" refers to a localized area on a surface of a solid support on which is immobilized one or multiple copies of a particular oligonucleotide/polynucleotide sequence and which enables the identification of the oligonucleotide/polynucleotide at the position, if hybridization of that oligonucleotide/polynucleotide to a sample polynucleotide occurs.

By "immobilized", refers to the attachment of the oligonucleotide/polynucleotide to the solid support. Means of immobilization are known and conventional to those of skill in the art, and may depend on the type of support being used.

By "EST" or "Expressed Sequence Tag" is meant a partial DNA or cDNA sequence of about 150 to 500, more preferably about 300, sequential nucleotides of a longer sequence obtained from a genomic or cDNA library prepared from a selected cell, cell type, tissue or tissue type, organ or organism which longer

sequence corresponds to an mRNA of a gene found in that library. An EST is generally DNA. One or more libraries made from a single tissue type typically provide at least about 3000 different (i.e., unique) ESTs and potentially the full complement of all possible ESTs representing all cDNAs e.g., 50,000-100,000 in an animal such as a human. Further background and information on the construction of ESTs is described in M. D. Adams et al., *Science*, 252:1651-1656 (1991); and International Application Number PCT/US92/05222 (January 7, 1993).

As used herein, the term "defined oligonucleotide/polynucleotide sequence" refers to a known nucleotide sequence fragment of a selected EST or gene.

This term is used interchangeably with the term "fragments of EST". These sequential sequences are generally comprised of between about 15 to about 45 nucleotides and more preferably between about 20 to about 25 nucleotides in length. Thus any single EST of 300 nucleotides in length may provide about 280 different defined oligonucleotide/polynucleotide sequences of 20 nucleotides in length (e.g., 20-mers). The lengths of the defined oligonucleotide/polynucleotides may be readily increased or decreased as desired or needed, depending on the limitations of the solid support on which they may be immobilized or the requirements of the hybridization conditions to be employed. The length is generally guided by the principle that it should be of sufficient length to insure that it is one average only represented once in the population to be examined. Generally, these defined oligonucleotide/polynucleotides are RNA or DNA and are preferably derived from the anti-sense strand of the EST sequence or from a corresponding mRNA sequence to enable their hybridization with samples of RNA or DNA. Modified nucleotides may be incorporated to increase stability and hybridization properties.

By the term "plurality of defined oligonucleotide/polynucleotide sequences" is meant the following. A surface of a solid support may immobilize a large number of "defined oligonucleotide/polynucleotides". For example, depending upon the nature of the surface, it can immobilize from about 300 to upwards of 60,000 defined 20-mer oligonucleotide/polynucleotides. It is anticipated that future improvements to solid surfaces will permit considerably larger such pluralities to be immobilized on a single surface. A "plurality" of sequences refers to the use on any one solid support of multiple different defined oligonucleotide/polynucleotides from a single EST from a selected library, as well as multiple different defined oligonucleotide/polynucleotides from different ESTs from the same library or many libraries from the same or different tissues, and may also include multiple identical copies of defined oligonucleotide/polynucleotides. Ultimately a plurality has at least one oligonucleotide/polynucleotide per expressed gene in the entire organism. For example, from a library producing about 5,000-10,000 ESTs, a single support can

include at least about 1-20 defined oligonucleotide/polynucleotides representing every of ESTs in that library. The composition of defined oligonucleotide/polynucleotides which make up a surface according to this invention may be selected or designed as desired.

Hybridization, detection and analysis of hybridization patterns

5. The term "sample" is employed in the description of this invention in several important ways. As used herein, the term "sample" encompasses any cell or tissue from an organism. Any desired cell or tissue type in any desired state may be selected to form a sample. For example, the sample cell desired may be a human T cell; the desired cell type for use in this invention may be a quiescent T cell or an activated T cell; it can also be the healthy or diseased and infected tissue surface itself. By the phrase "analogous sample" or "analogous cell or tissue" is meant that according to this invention when the ESTs which provide the defined oligonucleotide/polynucleotides are produced from a cDNA library prepared from a single tissue or cell type source sample, e.g., liver tissue of a human, then the samples used to hybridize to those immobilized defined oligonucleotide/polynucleotides are preferably provided by the same type of sample from either a healthy or diseased animal, i.e., liver tissue of a healthy human and liver tissue of a diseased or infected human or from a human suspected of having that disease or infection. Alternatively, if the surface contains defined oligonucleotide/polynucleotides from multiple cells or tissues, then the "samples" which are hybridized thereto can be but are not limited to samples obtained from analogous multiple tissues or cells.

By the term "detectably hybridizing" means that the sample from the healthy organism or diseased or infected organism is contacted with the defined oligonucleotide/polynucleotides on the surface for sufficient time to permit the formation of patterns of hybridization on the surfaces caused by hybridization between certain polynucleotide sequences in the samples with the certain immobilized defined oligonucleotide/polynucleotides. These patterns are made detectable by the use of available conventional techniques, such as fluorescent labelling of the samples. Preferably hybridization takes place under stringent conditions, e.g., revealing homologies of about 95%. However, if desired, other less stringent conditions may be selected. Techniques and conditions for hybridization at selected stringencies are well known in the art [see, e.g., Sambrook et al, Molecular Cloning. A Laboratory Manual, Cold Spring Harbor Laboratory, Cold Spring Harbor, NY (1989)].

35 *II. Compositions of The Invention*

The present invention is based upon the use of ESTs from any desired cell or tissue in known technologies for oligonucleotide/polynucleotide hybridization.

5. **Method of DNA.** **Step A.** **Isolation of cDNA and hybridization.** cDNA is isolated from a selected cell or tissue. An EST, as defined above, is for an animal, a sequence from a cDNA clone that corresponds to an mRNA. The EST sequences useful in the present invention are isolated preferably from cDNA libraries using a rapid screening and sequencing techniques. Custom-made cDNA libraries are made using known techniques. See, generally, Sambrook et al, cited above. Briefly, mRNA from a selected cell or tissue is reverse transcribed into complementary DNA (cDNA) using the reverse transcriptase enzyme and made double-stranded using RNase H coupled with DNA polymerase or reverse transcriptase. Restriction enzyme sites are added to the cDNA and it is cloned into a vector. The result is a cDNA library. Alternatively, commercially available cDNA libraries may be used. Libraries of cDNA can also be generated from recombinant expression of genomic DNA using known techniques, including polymerase chain reaction-derived techniques.

10. **Step B.** **Isolation of ESTs.** ESTs (which can range from about 150 to about 500 nucleotides in length, preferably about 300 nucleotides) can be obtained through sequence analysis from either end of the cDNA insert. Desirably, the DNA libraries used to obtain ESTs use directional cloning methods so that either the 5' end of the cDNA (likely to contain coding sequence) or the 3' end (likely to be a non-coding sequence) can be selectively obtained.

15. **Step C.** **Isolation of cDNA.** In general, the method for obtaining ESTs comprises applying conventional automated DNA sequencing technology to screen clones, advantageously randomly selected clones, from a cDNA library. The cDNA libraries from the desired tissue can be preprocessed, or edited, by conventional techniques to reduce repeated sequencing of high and intermediate abundance clones and to

20. maximize the chances of finding rare messages from specific cell populations. Preferably, preprocessing includes the use of defined composition prescreening probes, e.g., cDNA corresponding to mitochondria, abundant sequences, ribosomes, actins, myelin basic polypeptides, or any other known high abundance peptide. These prescreening probes used for preprocessing are generally derived from known ESTs.

25. **Step D.** **Isolation of ESTs.** Other useful preprocessing techniques include subtraction hybridization, which preferentially reduces the population of highly represented sequences in the library [e.g., see Farnoli et al, *Anal. Biochem.*, 187:364 (1990)] and normalization, which results in all sequences being represented in approximately equal proportions in the library [Patanjali et al, *Proc. Natl. Acad. Sci. USA*, 88:1943 (1991)]. Additional prescreening/differential screening approaches are known to those skilled in the art.

30. ESTs can then be generated from partial DNA sequencing of the selected clones. The ESTs useful in the present invention are preferably generated using low redundancy of sequencing, typically a single sequencing reaction. While

single sequencing reactions may have an accuracy as low as 90%, this nevertheless provides sufficient fidelity for identification of the sequence and design of PCR primers. (Hilberg L, P. Davis et al, *Anal Biochem* 170: 1 (1988)). Once isolated ESTs are used. If desired, the location of an EST in a full length cDNA is determined by analyzing the EST for the presence of coding sequence. A conventional computer program is used to predict the extent and orientation of the coding region of a sequence (using all six reading frames). Based on this information, it is possible to infer the presence of start or stop codons within a sequence and whether the sequence is completely coding or completely non-coding or a combination of the two. If start or stop codons are present, then the EST can cover both part of the 5'-untranslated or 3'-untranslated part of the mRNA (respectively) as well as part of the coding sequence. If no coding sequence is present, it is likely that the EST is derived from the 3' untranslated sequence due to its longer length and the fact that most cDNA library construction methods are biased toward the 3' end of the mRNA. It should be understood that both coding and non-coding regions may provide ESTs equally useful in the described invention.

A number of specific ESTs suitable for use in the present invention are described above Adams et al (*supra*), which may be incorporated by reference herein, to describe non-essential examples of desirable ESTs. Other ESTs exist in the art which may also be useful in this invention, as will ESTs yet to be developed by these known techniques.

B. Preparing the Solid Support of the Invention

Oligonucleotide sequences which are fragments of defined sequence are derived from each EST by conventional means, e.g., conventional chemical synthesis or recombinant techniques. Each defined oligonucleotide/polynucleotide sequence as described above is a fragment, can be, but is not necessarily an anti-sense fragment, of an EST isolated from a DNA library prepared from a selected cell or tissue type from a selected animal. For use in the present invention, it is presently preferred that the defined oligonucleotide/polynucleotide sequences are 20-25mers. As described above, for each EST a number of such 20-25mers may be generated. The lengths may vary as described above as well as the composition. For example oligonucleotide/polynucleotides can be modified based on the Oligo 4.0 or similar programs to predict hybridization potential or to include modified nucleotides for the reasons given above. It is also appreciated that large DNA segments may be employed including entire ESTs or even full length genes particular when inserted into cloning vectors.

10 A defined oligonucleotide/polynucleotide sequence is then attached to a selected solid support conventionally used for the attachment of nucleotide sequences again by known means. In contrast to other technologies available in the art, this support is designed to contain defined, not random, oligonucleotide/polynucleotide sequences. The EST fragments, or defined oligonucleotide/polynucleotide sequences, immobilized on the solid support can include fragments of one or more ESTs from a library of at least one selected tissue or cell sample of a healthy animal, at least one analogous sample of the animal having a disease, at least one analogous sample of the animal infected with a pathogen, and any combination thereof.

15 Numerous conventional methods are employed for attaching biological molecules such as oligonucleotide/polynucleotide sequences to surfaces of a variety of solid supports. See, e.g., Affinity Techniques, Enzyme Purification: Part B, Methods in Enzymology, Vol. 34, ed. W.B. Jakoby, M. Wilcheck, Acad. Press, NY (1974); Immobilized Biochemicals and Affinity Chromatography, Advances in Experimental Medicine and Biology, vol. 42, ed. R. Dunlap, Plenum Press, NY (1974); U. S. Patent No. 4,762,881; U. S. Patent No. 4,542,102; European Patent Publication No. 391,608 (October 10, 1990); U. S. Patent No. 4,992,127 (Nov. 21, 1989).

20 One desirable method for attaching oligonucleotide/polynucleotide sequences derived from ESTs to a solid support is described in International Application No. PCT/US90/06607 (published May 30, 1991). Briefly, this method involves forming predefined regions on a surface of a solid support, where the predefined regions are capable of immobilizing ESTs. The methods make use of binding substances attached to the surface which enable selective activation of the predefined regions. Upon activation, these binding substances become capable of binding and immobilizing oligonucleotide/polynucleotides based on EST or longer gene sequences.

25 Any of the known solid substrates suitable for binding oligonucleotide/polynucleotides at pre-defined regions on the surface thereof for hybridization and methods for attaching the oligonucleotide/polynucleotides thereto may be employed by one of skill in the art according to this invention. Similarly, known conventional methods for making hybridization of the immobilized oligonucleotide/polynucleotides detectable, e.g., fluorescence, radioactivity, photoactivation, biotinylation, solid state circuitry, and the like may be used in this invention.

30 Thus, by resorting to known techniques, the invention provides a composition suitable for use in hybridization which consists of a surface of a solid

support on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences for hybridization. For example, one composition of this invention is a solid support on which are immobilized oligos of EST fragments from a library constructed from a single cell type, e.g., a human 5 stem cell, or a single tissue, e.g., human liver, from a healthy human. Still another composition of this invention is another solid support on which are immobilized oligos of EST fragments from a library constructed from a single cell type or a tissue from a human having a selected disease or predisposition to a selected disease, e.g., liver cancer.

10 Another embodiment of the compositions of this invention include a single solid support having oligonucleotides of ESTs from both single cell or single tissue libraries from both a healthy and diseased human. Still other embodiments include a single support on which are immobilized oligos of EST fragments from more than one tissue or cell library from a healthy human or a single 15 support on which are immobilized more than one tissue or cell library from both healthy and diseased animals or humans. A preferred composition of this invention is anticipated to be a single support containing oligos of ESTs for all known cells and tissues from a selected organism.

20 **III. The Methods of the Invention**

A. Identification of Genes

25 The present invention employs the compositions described above in methods for identifying genes which are differentially expressed in a normal healthy organism and an organism having a disease or infection. These methods may be employed to detect such genes, regardless of the state of knowledge about the function of the gene. The method of this invention by use of the compositions containing multiple defined EST fragments from a single gene as described above is able to detect levels of expression of genes or in other cases simply the expression or lack thereof, which differ between normal, healthy organisms and organisms having a 30 selected disease, disorder or infection.

One such method employs a first surface of a solid support on which is immobilized at pre-defined regions thereon a plurality of defined oligonucleotide/polynucleotide sequences, described above, of EST or longer gene fragment isolated from a cDNA library prepared from at least one selected tissue or 35 cell sample of a healthy animal (the "healthy test surface") and a second such surface on which is immobilized at pre-defined regions a plurality of defined oligonucleotide/polynucleotide sequences of EST or longer gene fragment isolated from at least one analogous tissue of an animal having a selected disease (the "disease

test surface"). These test surfaces may be standardized for the selected animal or selected cell or tissue sample from that animal (i.e., they are prescreened for polymorphisms in the species population).

10 Polynucleotide sequences are then isolated from mRNA and/or cDNA from a biological sample from a known healthy animal ("healthy control") and a second sample is similarly prepared from a sample from a known diseased animal ("disease sample"). These two samples are desirably selected from the cell or tissue analogous to that which provided the immobilized oligonucleotide/polynucleotides.

15 According to the method, the healthy control sample is contacted with one set of the healthy test surface and the disease test surface described above for a time sufficient to permit detectable hybridization to occur between the sample and the immobilized defined oligonucleotide/polynucleotides on each surface. The results of this hybridization are a first hybridization pattern formed between the nucleotides of healthy control and the healthy test surface and a second hybridization pattern formed between the nucleotides of healthy control sample and the disease test surface.

20 In a similar manner, the disease sample is detectably hybridized to another set of healthy test and disease test surfaces, forming a third hybridization pattern between the disease sample and healthy test surface and a fourth hybridization pattern between the disease sample and the disease test surface.

25 Comparing the four hybridization patterns permits detection of those defined oligonucleotide/polynucleotides which are differentially expressed between the healthy control and the disease sample by the presence of differences in the hybridization patterns at pre-defined regions. The oligonucleotide/polynucleotides on each surface which correspond to the pattern differences may be readily identified with the corresponding EST or longer gene fragment from which the oligonucleotide/polynucleotides are obtained.

30 In another embodiment of the method of this invention, the same process is employed, with the exception that plurality of defined oligonucleotide/polynucleotide sequences forming the healthy test sample and the disease test sample surfaces are immobilized on a single solid support. For example, each fragment of an EST or longer gene fragment on the surface is isolated from at least two cDNA libraries prepared from a selected cell or tissue sample of a healthy animal and an analogous selected cell or tissue sample of an animal having a disease.

35 According to this embodiment, the healthy control sample is detectably hybridized to a copy of this single solid surface, forming one hybridization pattern with oligonucleotide/polynucleotides associated with both the healthy and diseased animal. Similarly, the disease sample is detectably hybridized to a second

copy of this single solid surface, forming one hybridization pattern with oligonucleotide/polynucleotides associated with both the healthy and diseased animal.

Comparing the two hybridization patterns permits detection of those defined oligonucleotide/polynucleotides which are differentially expressed between the healthy control and the disease sample by the presence of differences in the hybridization patterns at pre-defined regions. The oligonucleotide/polynucleotides on each surface which correspond to the pattern differences may be readily identified with the corresponding EST or longer gene fragment from which the oligonucleotide/polynucleotides are obtained.

10 The identification of one or more ESTs as the source of the defined oligonucleotide/polynucleotide which produced a "difference" in hybridization patterns according to these methods permits ready identification of the gene from which those ESTs were derived. Because oligonucleotides are of sufficient length that they will hybridize under stringent conditions only with a RNA/cDNA for that gene to which they correspond, the oligo can be used to identify the EST and in turn the clone from which it was derived and by subsequent cloning, obtain the sequence of the full-length cDNA and its genomic counterparts, i.e., the gene, from which it was obtained.

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In other words, the ESTs identified by the method of this invention can be employed to determine the complete sequence of the mRNA, in the form of transcribed cDNA, by using the EST as a probe to identify a cDNA clone corresponding to a full-length transcript, followed by sequencing of that clone. The EST or the full length cDNA clone can also be used as a probe to identify a genomic clone or clones that contain the complete gene including regulatory and promoter regions, exons, and introns.

It should be appreciated that one does not have to be restricted in using ESTs from a particular tissue from which probe RNA or cDNA is obtained, rather any or all ESTs (known or unknown) may be placed on the support. Hybridization will be used a form diagnostic patterns or to identify which particular EST is detected. For example, all known ESTs from an organism are used to produce a "master" solid support to which control sample and disease samples are alternately hybridized. One then detects a pattern of hybridization associated with the particular disease state which then forms the basis of a diagnostic test or the isolation of disease specific ESTs from which the intact gene may be cloned and sequenced leading ultimately to a defined therapeutic target.

Methods for obtaining complete gene sequences from ESTs are well-known to those of skill in the art. See, generally, Sambrook et al, cited above. Briefly, one suitable method involves purifying the DNA from the clone that was

sequenced to give the EST and labeling the isolated insert DNA. Suitable labeling systems are well known to those of skill in the art [see, e.g. Basic Methods in Molecular Biology, L. G. Davis et al, ed., Elsevier Press, NY (1986)]. The labeled EST insert is then used as a probe to screen a lambda phage cDNA library or a plasmid cDNA library, identifying colonies containing clones related to the probe cDNA which can be purified by known methods. The ends of the newly purified clones are then sequenced to identify full length sequences and complete sequencing of full length clones is performed by enzymatic digestion or primer walking. A similar screening and clone selection approach can be applied to clones from a genomic DNA library.

Additionally, an EST or gene identified by this method as associated with inherited disorders can be used to determine at what stage during embryonic development the selected gene from which it is derived is developed by screening embryonic DNA libraries from various stages of development, e.g. 2-cell, 8-cell, etc., for the selected gene. As has been mentioned above, the invention may be applied in additional temporal modes for monitoring the progression of a disease state, the efficacy of a particular treatment modality or the aging process of an individual.

Thus, the methods of this invention permit the identification, isolation and sequencing of a gene which is differentially expressed in a selected disease/infection. As described in more detail below, the identified gene may then be employed to obtain any protein encoded thereby, or may be employed as a target for diagnostic methods or therapeutic approaches to the treatment of the disease, including, e.g., drug development.

The same methods as described above for the identification of genes, including genes of unknown function, which are differentially expressed in a disease state, may also be employed to identify other genes of interest. For example, another embodiment of this invention includes a method for identifying a gene of a pathogen which is expressed in a biological sample of an animal infected with that pathogen or the gene of the host which is altered in its expression as a result of the infection.

One such method employs a healthy test surface as described above, employing defined oligonucleotide/polynucleotides from a sample of a healthy, uninfected animal. The second such surface has immobilized at pre-defined regions thereon a plurality of defined oligonucleotide/polynucleotide sequences of ESTs isolated from at least one analogous tissue or cell sample of an infected animal (the "infection test surface"). Polynucleotide sequences are isolated from a biological sample from a healthy animal ("healthy control") and a second sample is similarly

prepared from an animal infected with the selected pathogen ("infection sample"). These two samples are desirably selected from the cell or tissue analogous to that which provided the immobilized oligonucleotide/polynucleotides. It would also be possible to provide samples from the nucleic acid of the pathogen itself.

5 According to the method, the healthy control sample is contacted with one set of the healthy test surface and the infection test surface described above for a time sufficient to permit detectable hybridization to occur between the sample and the immobilized defined oligonucleotide/polynucleotides on each surface. The results of this hybridization are a first hybridization pattern formed 10 between the nucleotides of healthy control and the healthy test surface and a second hybridization pattern formed between the nucleotides of healthy control sample and the infection test surface. In a similar manner, the infection sample is detectably hybridized to another set of healthy test and infection test surfaces, forming a third 15 hybridization pattern between the infection sample and healthy test surface and a fourth hybridization pattern between the infection sample and the infection test surface.

Comparing the four hybridization patterns permits detection of those defined oligonucleotide/polynucleotides which are differentially expressed 20 between the healthy animal and the animal infected with the pathogen by the presence of differences in the hybridization patterns at pre-defined regions. As mentioned differential expression is not required and simple qualitative analysis is possible by reference to gene expression which is simply present or absent.

A second embodiment of this method parallels the second 25 embodiment of the method as applied to disease above, i.e., the same process is employed, with the exception that plurality of defined oligonucleotide/polynucleotide sequences forming the healthy test sample surface and the infection test sample surface are immobilized on a single solid support. The resulting first hybridization pattern (healthy control sample with healthy/infection test sample) and second 30 hybridization pattern (infection sample with healthy/infection test sample) permits detection of those defined oligonucleotide/polynucleotides which are differentially expressed between the healthy control and the infection sample by the presence of differences in the hybridization patterns at pre-defined regions. The oligonucleotide/polynucleotides on each surface which correspond to the pattern 35 differences may be readily identified with the corresponding ESTs from which the oligonucleotide/polynucleotides are obtained.

As described above for the methods for identifying differential gene expression between diseased and healthy animals, the

oligonucleotide/polynucleotides on each surface which correspond to the pattern differences may be readily identified with the corresponding ESTs from which the oligonucleotide/polynucleotide sequences are obtained and the genes expressed by the pathogen identified for similar purposes. Other embodiments of these methods may 5 be developed with resort to the teaching herein, by altering the samples which provide the defined oligonucleotide/polynucleotides. For example, an EST, identified with a differentially expressed gene by the method of this invention is also useful in detecting genes expressed in the various stages of an pathogen's development, particularly the infective stage and following the course of drug treatment and 10 emergence of resistant variants. For example, employing the techniques described above, the EST can be used for detecting a gene in various stages of the parasitic *Plasmodium* species life cycle, which include blood stages, liver stages, and gametocyte stages.

B. Diagnostic Methods

15 In addition to use of the methods and compositions of this invention for identifying differentially expressed genes, another embodiment of this invention provides diagnostic methods for diagnosing a selected disease state, or a selected state resulting from aging, exposure to drugs or infection in an animal. According to this aspect of the invention, a first surface, described as the healthy test 20 surface above, and a second surface, described as the disease test surface or infection test surface, are prepared depending on the disease or infection to be diagnosed. The same processes of detectable hybridization to a first and second set of these surfaces with the healthy control sample and disease/infection sample are followed to provide the four above-described hybridization patterns, i.e., healthy control sample with 25 healthy test surface; healthy control sample with disease/infection test surface; disease/infection sample with healthy test surface; and disease/infection sample with disease/infection test surface.

The diagnosis of disease or infection is provided by comparing 30 the four hybridization patterns. Substantial differences between the first and third hybridization patterns, respectively, and the second and fourth hybridization patterns, respectively, indicate the presence of the selected disease or infection in said animal. Substantial similarities in the first and third hybridization patterns and second and fourth hybridization patterns indicates the absence of disease or infection.

35 A similar embodiment utilizes the single surface bearing both the healthy test surface defined oligonucleotide/polynucleotides and the disease/infection test surface defined oligonucleotide/polynucleotides as described above. Parallel process steps as described above for detection of genes differentially expressed in disease and infected states are followed, resulting in a first hybridization

pattern (healthy control sample with single healthy and disease/infection test sample) and a second hybridization pattern (disease/infection sample with another copy of the single healthy and disease/infection test sample). Diagnosis is accomplished by comparing the two hybridization patterns, wherein substantial differences between the first and second hybridization patterns indicate the presence of the selected disease or infection in the animal being tested. Substantially similar first and second hybridization patterns indicate the absence of disease or infection. This like many of the foregoing embodiments may use known or unknown ESTs derived from many libraries.

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C. Other Methods of the Invention

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As is obvious to one of skill in the art upon reading this disclosure, the compositions and methods of this invention may also be used for other similar purposes. For example, the general methods and compositions may be adapted easily by manipulation of the samples selected to provide the standardized defined oligonucleotide/polynucleotides, and selection of the samples selected for hybridization thereto. One such modification is the use of this invention to identify cell markers of any type, e.g., markers of cancer cells, stem cell markers, and the like. Another modification involves the use of the method and compositions to generate hybridization patterns useful for forensic identification or an 'expression fingerprint' of genes for identification of one member of a species from another. Similarly, the methods of this invention may be adapted for use in tissue matching for transplantation purposes as well as for molecular histology, i.e., to enable diagnosis of disease or disorders in pathology tissue samples such as biopsies. Still another use of this method is in monitoring the effects of development and aging upon the gene expression in a selected animal, by preparing surfaces bearing oligonucleotide/polynucleotides prepared from samples of standardized younger members of the species being tested. Additionally the patient can serve as an internal control by virtue of having the method applied to blood samples every 5-10 years during his lifetime.

Still another intriguing use of this method is in the area of monitoring the effects of drugs on gene expression, both in laboratories and during clinical trials with animal, especially humans. Because the method can be readily adapted by altering the above parameters, it can essentially be employed to identify differentially expressed genes of any organism, at any stage of development, and under the influence of any factor which can affect gene expression.

IV. The Genes and Proteins Identified

Application of the compositions and methods of this invention as above described also provide other compositions, such as any isolated gene sequence which is differentially expressed between a normal healthy animal and an animal having a disease or infection. Another embodiment of this invention is any isolated pathogen gene sequence which is expressed in tissue or cell samples of an infected animal. Similarly an embodiment of this invention is any gene sequence identified by the methods described herein.

These gene sequences may be employed in conventional methods to produce isolated proteins encoded thereby. To produce a protein of this invention, the DNA sequences of a desired gene identified by the use of the methods of this invention or portions thereof are inserted into a suitable expression system. Desirably, a recombinant molecule or vector is constructed in which the polynucleotide sequence encoding the protein is operably linked to a heterologous expression control sequence permitting expression of the human protein. Numerous types of appropriate expression vectors and host cell systems are known in the art for mammalian (including human) expression, insect, e.g., baculovirus expression, yeast, fungal, and bacterial expression, by standard molecular biology techniques.

The transfection of these vectors into appropriate host cells, whether mammalian, bacterial, fungal, or insect, or into appropriate viruses, can result in expression of the selected proteins. Suitable host cells or cell lines for transfection, and viruses, as well as methods for the construction and transfection of such host cells and viruses are well-known. Suitable methods for transfection, culture, amplification, screening, and product production and purification are also known in the art.

The genes and proteins identified by this invention can be employed, if desired in diagnostic compositions useful for the diagnosis of a disease or infection using conventional diagnostic assays. For example, a diagnostic reagent can be developed which detectably targets a gene sequence or protein of this invention in a biological sample of an animal. Such a reagent may be a complementary nucleotide sequence, an antibody (monoclonal, recombinant or polyclonal), or a chemically derived agonist or antagonist. Alternatively, the proteins and polynucleotide sequences of this invention, fragments of same, or complementary sequences thereto, may themselves be useful as diagnostic reagents for diagnosing disease states with which the ESTs of the invention are associated. These reagents may optionally be labelled using diagnostic labels, such as radioactive labels, colorimetric enzyme label systems and the like conventionally used in diagnostic or therapeutic methods, e.g., Northern and Western blotting, antigen-antibody binding and the like. The selection of the appropriate assay format and label system is within the skill of the art and may

readily be chosen without requiring additional explanation by resort to the wealth of art in the diagnostic area. ¹⁰ The difficulties and complexities of sequencing ESTs from a library example. Additionally, genes and proteins identified according to this invention may be used therapeutically. For example, the EST-containing gene sequences may be useful in gene therapy, to provide a gene sequence which in a disease is not properly or sufficiently expressed. In such a method, a selected gene sequence of this invention is introduced into a suitable vector or other delivery system for delivery to a cell containing a defect in the selected gene. Suitable delivery systems are well known to those of skill in the art and enable the desired EST or gene to be incorporated into the target cell and to be translated by the cell. The EST or gene sequence may be introduced to mutate the existing gene by recombination or provide an active copy thereof in addition to the inactive gene to replace its function. ¹⁵ Alternatively, a protein encoded by an EST or gene of the invention may be useful as a therapeutic reagent for delivery of a biologically active protein, particularly when the disease state is associated with a deficiency of this protein. Such a protein may be incorporated into an appropriate therapeutic formulation, alone or in combination with other active ingredients. Methods of formulating such therapeutic compositions, as well as suitable pharmaceutical carriers, and the like, are well known to those of skill in the art. Still an additional method of delivering the missing protein encoded by an EST, or the gene from which a selected EST was derived, involves expressing it directly *in vivo*. Systems for such *in vivo* expression are well known in the art. ²⁰

Yet another use of the ESTs, genes identified according to the methods of this invention, or the proteins encoded thereby is a target for the screening and development of natural or synthetic chemical compounds which have utility as therapeutic drugs for the treatment of disease states associated with the identified genes and ESTs derived therefrom. As one example, a compound capable of binding to such a protein encoded by such a gene and either preventing or enhancing its biological activity may be a useful drug component for the treatment or prevention of such disease states. ²⁵

Conventional assays and techniques may be used for the screening and development of such drugs. As one example, a method for identifying compounds which specifically bind to or inhibit or activate proteins encoded by these gene sequences can include simply the steps of contacting a selected protein or gene product, with a test compound to permit binding of the test compound to the protein; and determining the amount of test compound, if any, which is bound to the protein. Such a method may involve the incubation of the test compound and the protein immobilized on a solid support. Still other conventional methods of drug screening

can involve employing a suitable computer program to determine compounds having similar or complementary chemical structures to that of the gene product or portions thereof and screening those compounds either for competitive binding to the protein to detect enhanced or decreased activity in the presence of the selected compound.

5. ~~Thus, through use of such methods, the present invention is anticipated to provide compounds capable of interacting with these genes, ESTs, or encoded proteins, or fragments thereof, and either enhancing or decreasing the biological activity, as desired. Such compounds are believed to be encompassed by this invention.~~

10. ~~Numerous modifications and variations of the present invention are included in the above-identified specification and are expected to be obvious to one of skill in the art. Such modifications and alterations to the compositions and processes of the present invention are believed to be encompassed in the scope of the claims appended hereto.~~

15. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

16. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

17. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

18. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

19. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

20. ~~It is to be understood that the present invention is not limited to the specific embodiment described above, but that it is intended to cover all modifications and equivalents within the spirit and scope of the appended claims.~~

WHAT IS CLAIMED IS: 1. A method for identifying genes which are differentially expressed in a second state of an animal or a plant having a disease, characterized by the method of

1. A method for identifying genes which are differentially expressed in two different pre-determined states of an organism comprising:
 5. a. providing a first surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene, isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample in a first state and present in excess relative to the polynucleotide to be hybridized;
 10. b. providing a second surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene, isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample in a second state and present in excess relative to the polynucleotide to be hybridized;
 15. c. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from a said organism in said first state, said sample selected from sources analogous to the sources of step (a), said hybridization sufficient to form a first and second hybridization pattern on each said first and second surface,
 20. d. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from said organism in said second state, said sample selected from sources analogous to the sources of step (c), said hybridization sufficient to form a third and fourth hybridization pattern on each said first and second surface,
 25. e. comparing at least two of the four hybridization patterns, wherein genes differentially expressed in said first and second states are identified by the presence of differences in the hybridization patterns at pre-defined regions;
 30. f. identifying the oligonucleotide/polynucleotides on each surface which correspond to said pattern differences and the corresponding ESTs or larger gene fragment from which the oligonucleotide/polynucleotides were obtained, whereby identification of the EST or larger gene fragment permits identification of the gene from which the ESTs or larger gene fragment were derived.

2. The method according to Claim 1 wherein said first and second states are respectively healthy and disease; pathogen uninfected and pathogen infected; a first progression state and a second progression of a disease or infection; a first treatment state and a second treatment state of a disease or infection; or a first developmental and a second developmental state.

3. The method according to Claim 1 wherein said organism is a plant or an animal.

4. The method according to Claim 3 wherein said animal is a human.

5. A method for identifying genes which are differentially expressed in a normal healthy animal and an animal having a disease comprising:

- providing a first surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene, isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample in a healthy animal and present in excess relative to the polynucleotide to be hybridized;
- providing a second surface on which is immobilized at pre-defined regions of said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene, isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample from an animal having said disease and present in excess relative to the polynucleotide to be hybridized;
- detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from a healthy animal, said sample selected from sources analogous to the sources of step (a), said hybridization sufficient to form a first and second hybridization pattern on each said first and second surface, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a first and second hybridization pattern on each said first and second surface;

detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from an animal having said disease, said sample selected from a cell or tissue sample analogous to the sample of step (c), said hybridization sufficient to form a third and fourth hybridization pattern on each 5 said first and second surface,

e. comparing at least two of the four hybridization patterns, wherein genes differentially expressed in said first and second states are identified by the presence of differences in the hybridization patterns at pre-defined regions;

f. identifying the oligonucleotide/polynucleotides on each surface 10 which correspond to said pattern differences and the corresponding ESTs or larger gene fragment from which the oligonucleotide/polynucleotides were obtained, whereby identification of the EST or larger gene fragment permits identification of the gene from which the ESTs or larger gene fragment were derived.

15 6. A method for identifying genes which are differentially expressed in a normal healthy animal and an animal having a disease comprising:

a. providing a surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, 20 an entire EST a fragment of a gene or an entire gene isolated from a DNA library prepared from the group selected from at least one selected cell, tissue, organ or organism sample in of a healthy animal and an analogous selected sample of an animal having said disease and both present in excess relative to the polynucleotide to be hybridized;

25 b. detectably hybridizing to a first copy of said surface polynucleotide sequences isolated from a healthy animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a first hybridization pattern on said surface;

c. detectably hybridizing to a second copy of said surface 30 polynucleotide sequences isolated from an animal having said disease, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a second hybridization pattern on said surface;

d. comparing the two hybridization patterns, wherein genes differentially expressed in a disease state are identified by the presence of differences 35 in the hybridization patterns at pre-defined regions;

which correspond to said pattern differences and the corresponding ESTs, from which the oligonucleotide/polynucleotides are obtained, whereby identification of the EST permits identification of the gene from which the ESTs were derived.

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17. A method for identifying a gene of a pathogen which is expressed in a biological sample of an animal infected with said pathogen comprising:

a. providing a first surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample of a healthy, uninfected animal and present in excess relative to the polynucleotide to be hybridized;

15

b. providing a second surface on which is immobilized at pre-defined regions of said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene isolated from at least one selected cell, tissue, organ or organism sample of an infected animal;

20

c. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from a healthy animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form first and second hybridization patterns on each said first and second surface.

25

d. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a sample from an infected animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form third and fourth hybridization patterns on each said first and second surface.

30

e. comparing the four hybridization patterns, wherein genes of said pathogen which are expressed in an infected animal are identified by the presence of differences in the hybridization patterns at pre-defined regions:

f. identifying the oligonucleotide/polynucleotides on each surface which correspond to said pattern differences and the corresponding ESTs from which the oligonucleotide/polynucleotides are obtained, whereby identification of the EST permits identification of the gene from which the ESTs were derived.

8. A method for identifying a gene of a pathogen which is expressed in a biological sample of an animal infected with said pathogen comprising:

- a. providing a surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene isolated from a DNA library prepared from the group selected from at least one selected cell, tissue, organ or organism sample in of a healthy animal and an analogous selected sample of an animal having said disease and both present in excess relative to the polynucleotide to be hybridized
- b. detectably hybridizing to a first copy of said surface polynucleotide sequences isolated from a sample from a healthy animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a first hybridization pattern on said surface;
- c. detectably hybridizing to a second copy of said surface polynucleotide sequences isolated from a sample from an infected animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a second hybridization pattern on said surface;
- d. comparing the two hybridization patterns, wherein genes of said pathogen which are expressed in an infected animal are identified by the presence of differences in the hybridization patterns at pre-defined regions;
- e. identifying the oligonucleotide/polynucleotides on each surface which correspond to said pattern differences and the corresponding ESTs from which the oligonucleotide/polynucleotides are obtained, whereby identification of the EST permits identification of the gene from which the ESTs were derived.

9. A composition suitable for use in hybridization comprising a solid surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences for hybridization, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene isolated from a DNA library prepared from the group selected from at least one selected cell, tissue, organ or organism sample of a healthy animal, at least one analogous sample of said animal having a disease, at least one analogous sample of said animal infected with a microbial pathogen, and any combination thereof.

10. An isolated gene sequence which is differentially expressed in a normal healthy animal and an animal having a disease, identified by the method of claim 1.
- 5 11. An isolated pathogen gene sequence which is expressed in tissue or cell samples of an infected animal identified by the method of claim 7.
- 10 12. A diagnostic composition useful for the diagnosis of a disease comprising a reagent capable of detectably targeting a gene sequence of claim 10 in a biological sample of an animal.
- 15 13. A diagnostic composition useful for the diagnosis of infection by a pathogen comprising a reagent capable of detectably targeting a gene sequence of claim 11 in a biological sample of an animal.
- 20 14. An isolated protein produced by expression of a gene sequence of claim 10.
15. An isolated pathogen protein produced by expression of a gene sequence of claim 11.
- 25 16. A therapeutic composition comprising a protein or fragment thereof selected from the group consisting of a protein of claim 10 and a protein of claim 15.
17. A method for diagnosing a selected disease or infection in an animal comprising:
 - a. providing a first surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence selected from the group consisting of a fragment of an EST, an entire EST a fragment of a gene or an entire gene, isolated from a DNA library prepared from at least one selected cell, tissue, organ or organism sample of a healthy animal and present in excess relative to the polynucleotide to be hybridized;
 - b. providing a second surface on which is immobilized at pre-defined regions of said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence comprising a fragment of an EST isolated from at least one said tissue of an animal having said disease;

- c. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a DNA library prepared from a sample from a healthy animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a first and second hybridization pattern on each said first and second surface;
 - 5 d. detectably hybridizing to a set of said first and second surfaces polynucleotide sequences isolated from a DNA library prepared from a sample from an animal having said disease, said sample selected from a cell or tissue sample analogous to the sample of step (c), said hybridization sufficient to form a third and fourth hybridization pattern on each said first and second surface;
 - 10 e. comparing the four hybridization patterns, wherein substantial differences between the first and third hybridization patterns and the second and fourth hybridization patterns indicates the presence of said selected disease or infection in said animal, and substantial similarities in said first and third hybridization patterns and second and fourth hybridization patterns indicates the 15 absence of disease or infection.

18. A method for diagnosing a selected disease or infection in an animal comprising:

 - 20 a. providing a surface on which is immobilized at pre-defined regions on said surface a plurality of defined oligonucleotide/polynucleotide sequences, each sequence comprising a fragment of an EST isolated from a DNA library prepared from the group consisting of a selected cell or tissue sample of a healthy animal and an analogous selected cell or tissue sample of an animal having said disease;
 - b. detectably hybridizing to a first copy of said surface polynucleotide sequences isolated from a sample from a healthy animal, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a first hybridization pattern on said surface;
 - 30 c. detectably hybridizing to a second copy of said surface polynucleotide sequences isolated from a DNA library prepared from a sample from an animal having said disease, said sample selected from a cell or tissue sample analogous to the sample of step (a), said hybridization sufficient to form a second hybridization pattern on said surface;
 - 35 d. comparing the two hybridization patterns, wherein substantial differences between the first and second hybridization patterns indicates the presence of said selected disease or infection in said animal, and substantial similarities in said first and second hybridization patterns indicates the absence of disease or infection.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US95/01863

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) :C12Q 1/68

US CL :435/6

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/6

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

APS, CAS, BIOSIS

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	ANALYTICAL BIOCHEMISTRY, VOLUME 187, ISSUED 1990, FARGNOLI ET AL, "LOW-RATIO HYBRIDIZATION SUBTRACTION", PAGES 364-373, SEE ENTIRE DOCUMENT.	1-18
Y	PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES USA, VOLUME 88, ISSUED MARCH 1991, PATANJALI ET AL, "CONSTRUCTION OF A UNIFORM-ABUNDANCE (NORMALIZED) CDNA LIBRARY", PAGES 1943-1947, SEE ENTIRE DOCUMENT.	1-18
Y	SCIENCE, VOLUME 245, ISSUED 29 SEPTEMBER 1989, OLSON ET AL. "A COMMON LANGUAGE FOR PHYSICAL MAPPING OF THE HUMAN GENOME", PAGES 1434-1435, SEE ENTIRE DOCUMENT.	1-18

<input checked="" type="checkbox"/>	Further documents are listed in the continuation of Box C.	<input type="checkbox"/>	See patent family annex.
•	Special categories of cited documents:		
"A"	document defining the general state of the art which is not considered to be of particular relevance	"T"	later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
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03 APRIL 1995	17 MAY 1995 -
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INTERNATIONAL SEARCH REPORT

International application No.

PCT/US95/01863

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	SCIENCE, VOLUME 252, ISSUED 21 JUNE 1991, ADAMS ET AL, "COMPLEMENTARY DNA SEQUENCING: EXPRESSED SEQUENCE TAGS AND HUMAN GENOME PROJECT", PAGES 1651-1656, SEE ENTIRE DOCUMENT.	1-18

INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(51) International Patent Classification ⁶ :		A1	(11) International Publication Number: WO 95/35505
G01N 33/543, 33/68			(43) International Publication Date: 28 December 1995 (28.12.95)
(21) International Application Number: PCT/US95/07659		(81) Designated States: AU, CA, JP, European patent (AT, BE, CH, DE, DK, ES, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE)	
(22) International Filing Date: 16 June 1995 (16.06.95)		Published	
(30) Priority Data: 08/261,388 17 June 1994 (17.06.94) US 08/477,809 27 June 1995 (07.06.95) US		With international search report.	
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(54) Title: METHOD AND APPARATUS FOR FABRICATING MICROARRAYS OF BIOLOGICAL SAMPLES			
(57) Abstract			
<p>A method and apparatus for forming microarrays of biological samples on a support are disclosed. The method involves dispensing a known volume of a reagent at each of a selected array position, by tapping a capillary dispenser on the support under conditions effective to draw a defined volume of liquid onto the support. The apparatus is designed to produce a microarray of such regions in an automated fashion.</p>			

independently on each with a different cross-reactant antigen. However, each antibody is intended to bind only one foreign antigen. Therefore, the cross-reactive antibodies have much a wider scope, of many different antigens in the same blood serum of the same subject. Furthermore, the antibodies are of two types of IgM and IgG and possess the use of the division for both heterophilic, fluorescent and indirect Coombs Test Form. The antibody can bind the membrane of the RBC by direct Coombs Test. The indirect Coombs Test form can bind in the fluid serum, but when the antibody binds with the RBC, the RBC will be agglutinated. The indirect Coombs Test form can bind in the fluid serum, but when the antibody binds with the RBC, the RBC will be agglutinated.

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surfaces in the droplet form a gradient. The channel is preferably formed by a pair of spin-coated layered polymeric films.

After formation of the droplet gradient, a droplet is placed on the channel substrate on the support, initialized with an initiator effective to mask the gradient. In the preliminary chemical step, the calculated volume of solution on the substrate, preferably a selected volume in the range of 0.1 to 1000, is then dispensed onto the droplet of the initiator.

METHOD AND APPARATUS FOR FABRICATING MICROARRAYS OF BIOLOGICAL SAMPLES

Read reference 10 for a detailed description of a plurality of prior art relating to the following steps of the **Field of the Invention**.

This invention relates to a method and apparatus for fabricating microarrays of biological samples for large scale screening assays, such as arrays of DNA samples to be used in DNA hybridization assays for genetic research and diagnostic applications.

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5. Southern, et al., *Genomics* 13:1008-1017 (1992). A technique is disclosed for rapidly changing the loading sequence. **Background of the Invention** In the loading sequence, 10. A variety of methods are currently available for making arrays of biological macromolecules, such as for arrays of nucleic acid molecules or proteins. One may 15. method for making ordered arrays of DNA on a porous membrane is a "dot-blot" approach. In this method, a vacuum manifold transfers a plurality, e.g., 96, of the aqueous samples of DNA from 3 millimeter diameter wells to a porous membrane. A common variant of this procedure is a "slot-blot" method in which the wells have highly-elongated oval shapes.

The DNA is immobilized on the porous membrane by baking the membrane or exposing it to UV radiation. 20. This is a manual procedure practical for making one array at a time and usually limited to 96 samples per array. "Dot-blot" procedures are therefore inadequate for applications in which many thousand samples must be determined.

25. A more efficient technique employed for making ordered arrays of genomic fragments uses an array of pins, dipped into the wells, e.g., the 96 wells of a microtitre plate, for transferring an array of samples to a substrate, such as a porous membrane. One array 30. includes pins that are designed to spot a membrane in a staggered fashion, for creating an array of 9216 spots in a 22 x 22 cm area (Lehrach, et al., 1990). A limitation with this approach is that the volume of DNA spotted in each pixel of each array is highly variable.

In addition, the number of arrays that can be made with each dipping is usually quite small, perhaps only one. An alternate method of creating ordered arrays of nucleic acid sequences is described by Pirrung, et al. (1992), and also by Fodor, et al. (1991). The method involves synthesizing different nucleic acid sequences at different discrete regions of a support. This method employs elaborate synthetic schemes, and is generally limited to relatively short nucleic acid samples, e.g., less than 20 bases. A related method has been described by Southern, et al. (1992). A prior art by Khrapko, et al. (1991) describes a method of making an oligonucleotide matrix by spotting DNA onto a thin layer of polyacrylamide. The spotting is done manually with a micropipette. None of the methods or devices described in the prior art are designed for mass fabrication of microarrays characterized by (i) a large number of micro-sized assay regions separated by a distance of 50-200 microns or less, and (ii) a well-defined amount, typically in the picomole range, of analyte associated with each region of the array. Furthermore, current technology is directed at performing such assays one at a time to a single array of DNA molecules. For example, the most common method for performing DNA hybridizations to arrays spotted onto porous membrane involves sealing the membrane in a plastic bag (Maniatis, et al., 1989) or a rotating glass cylinder (Robbins Scientific) with the labeled hybridization probe inside the sealed chamber. For arrays made on non-porous surfaces, such as a microscope slide, each array is incubated with the labeled hybridization probe sealed under a coverslip. These techniques require a separate sealed chamber for

each array which makes the screening and handling of many such arrays inconvenient and time intensive. In 1994, Abouzied, et al. (1994) describes a method of printing horizontal lines of antibodies on a 100

5 nitrocellulose membrane and separating regions of the membrane with vertical stripes of a hydrophobic barrier material. Each vertical stripe is then reacted with a different antigen and the reaction between the 100 immobilized antibody and an antigen is detected using a standard ELISA colorimetric technique. Abouzied's technique makes it possible to screen many one-dimensional arrays simultaneously on a single sheet of nitrocellulose. Abouzied makes the nitrocellulose somewhat hydrophobic using a line drawn with PAP Pen (Research Products International). However, Abouzied does not describe a technology that is capable of completely sealing the pores of the nitrocellulose. The pores of the nitrocellulose are still physically open and so the assay reagents can leak through the 15 hydrophobic barrier during extended high temperature incubations or in the presence of detergents which makes the Abouzied technique unacceptable for DNA hybridization assays.

20 Porous membranes with printed patterns of hydrophilic/hydrophobic regions exist for applications such as ordered arrays of bacteria colonies. QA Life Sciences (San Diego CA) makes such a membrane with a grid pattern printed on it. However, this membrane has the same disadvantage as the Abouzied technique since 25 reagents can still flow between the gridded arrays making them unusable for separate DNA hybridization assays.

Pall Corporation make a 96-well plate with a porous filter heat sealed to the bottom of the plate.

30 These plates are capable of containing different

reagents in each well without cross-contamination. However, each well is intended to hold only one target element whereas the invention described here makes a microarray of many biomolecules in each subdivided region of the solid support. Furthermore, the 96 well plates are at least 1 cm thick and prevent the use of the device for many colorimetric, fluorescent and radioactive detection formats which require that the membrane lie flat against the detection surface. The invention described here requires no further processing after the assay step since the barriers elements are shallow and do not interfere with the detection step thereby greatly increasing convenience.

Hyseq Corporation has described a method of making an "array of arrays" on a non-porous solid support for use with their sequencing by hybridization technique. The method described by Hyseq involves modifying the chemistry of the solid support material to form a hydrophobic grid pattern where each subdivided region contains a microarray of biomolecules. Hyseq's flat hydrophobic pattern does not make use of physical blocking as an additional means of preventing cross contamination.

25 Summary of the Invention

The invention includes, in one aspect, a method of forming a microarray of analyte-assay regions on a solid support, where each region in the array has a known amount of a selected, analyte-specific reagent. The method involves first loading a solution of a selected analyte-specific reagent in a reagent-dispensing device having an elongate capillary channel (i) formed by spaced-apart, coextensive elongate members, (ii) adapted to hold a quantity of the reagent solution and (iii) having a tip region at which aqueous

solution in the channel forms a meniscus. The channel is preferably formed by a pair of spaced-apart tapered elements.

5 The tip of the dispensing device is tapped against a solid support at a defined position on the support surface with an impulse effective to break the meniscus in the capillary channel deposit a selected volume of solution on the surface, preferably a selected volume in the range 0.01 to 100 nl. The two steps are

10 repeated until the desired array is formed.

The method may be practiced in forming a plurality of such arrays, where the solution-depositing step is applied to a selected position on each of a plurality of solid supports at each repeat cycle.

15 The dispensing device may be loaded with a new solution, by the steps of (i) dipping the capillary channel of the device in a wash solution, (ii) removing wash solution drawn into the capillary channel, and (iii) dipping the capillary channel into the new reagent solution.

20 Also included in the invention is an automated apparatus for forming a microarray of analyte-assay regions on a plurality of solid supports, where each region in the array has a known amount of a selected, analyte-specific reagent. The apparatus has a holder for holding, at known positions, a plurality of planar supports, and a reagent dispensing device of the type described above.

25 The apparatus further includes positioning structure for positioning the dispensing device at a selected array position with respect to a support in said holder, and dispensing structure for moving the dispensing device into tapping engagement against a support with a selected impulse effective to deposit a

selected volume on the support, e.g., a selected volume in the volume range 0.01 to 100 nl.

The positioning and dispensing structures are controlled by a control unit in the apparatus. The

- 5 unit operates to (i) place the dispensing device at a loading station, (ii) move the capillary channel in the device into a selected reagent at the loading station, to load the dispensing device with the reagent, and (iii) dispense the reagent at a defined array position
- 10 on each of the supports on said holder. The unit may further operate, at the end of a dispensing cycle, to wash the dispensing device by (i) placing the dispensing device at a washing station, (ii) moving the capillary channel in the device into a wash fluid, to load the dispensing device with the fluid, and (iii)
- 15 remove the wash fluid prior to loading the dispensing device with a fresh selected reagent.

The dispensing device in the apparatus may be one of a plurality of such devices which are carried on the arm for dispensing different analyte assay reagents at selected spaced array positions.

In another aspect, the invention includes a substrate with a surface having a microarray of at least 10^3 distinct polynucleotide or polypeptide biopolymers in a surface area of less than about 1 cm^2 . Each distinct biopolymer (i) is disposed at a separate, defined position in said array, (ii) has a length of at least 50 subunits, and (iii) is present in a defined amount between about 0.1 femtmoles and 100 nanomoles.

In one embodiment, the surface is glass slide surface coated with a polycationic polymer, such as polylysine, and the biopolymers are polynucleotides. In another embodiment, the substrate has a water-impermeable backing, a water-permeable film formed on

the backing, and a grid formed on the film. The grid is composed of intersecting water-impervious grid elements extending from said backing to positions raised above the surface of said film, and partitions the film into a plurality of water-impervious cells. A biopolymer array is formed within each well. More generally, there is provided a substrate for use in detecting binding of labeled polynucleotides to one or more of a plurality different-sequence, immobilized polynucleotides. The substrate includes, in one aspect, a glass support, a coating of a polycationic polymer, such as polylysine, on said surface of the support, and an array of distinct polynucleotides electrostatically bound non-covalently to said coating, where each distinct biopolymer is disposed at a separate, defined position in a surface array of polynucleotides.

In another aspect, the substrate includes a water-impermeable backing, a water-permeable film formed on the backing, and a grid formed on the film, where the grid is composed of intersecting water-impervious grid elements extending from the backing to positions raised above the surface of the film, forming a plurality of cells. A biopolymer array is formed within each cell.

Also forming part of the invention is a method of detecting differential expression of each of a plurality of genes in a first cell type, with respect to expression of the same genes in a second cell type. In practicing the method, there is first produced fluorescent-labeled cDNA's from mRNA's isolated from the two cells types, where the cDNA's from the first and second cells are labeled with first and second different fluorescent reporters.

A mixture of the labeled cDNA's from the two cell types is added to an array of polynucleotides

representing a plurality of known genes derived from the two cell types, under conditions that result in hybridization of the cDNA's to complementary-sequence polynucleotides in the array. The array is then 5 examined by fluorescence under fluorescence excitation conditions in which (i) polynucleotides in the array that are hybridized predominantly to cDNA's derived from one of the first and second cell types give a distinct first or second fluorescence emission color, respectively, and (ii) polynucleotides in the array that are hybridized to substantially equal numbers of cDNA's derived from the first and second cell types give a distinct combined fluorescence emission color, respectively. The relative expression of known genes 10 in the two cell types can then be determined by the observed fluorescence emission color of each spot. 15

These and other objects and features of the invention will become more fully apparent when the following detailed description of the invention is read in conjunction with the accompanying figures. 20

Brief Description of the Drawings

Fig. 1 is a side view of a reagent-dispensing device having an open-capillary dispensing head 25 constructed for use in one embodiment of the invention; Figs. 2A-2C illustrate steps in the delivery of a fixed-volume bead on a hydrophobic surface employing the dispensing head from Fig. 1, in accordance with one embodiment of the method of the invention;

Fig. 3 shows a portion of a two-dimensional array 30 of analyte-assay regions constructed according to the method of the invention;

Fig. 4 is a planar view showing components of an 35 automated apparatus for forming arrays in accordance with the invention.

Fig. 5 shows a fluorescent image of an actual 20 x 20 array of 400 fluorescently-labeled DNA samples immobilized on a poly-L-lysine coated slide, where the total area covered by the 400 element array is 16 square millimeters;

Fig. 6 is a fluorescent image of a 1.8 cm x 1.8 cm microarray containing lambda clones with yeast inserts, the fluorescent signal arising from the hybridization to the array with approximately half the yeast genome labeled with a green fluorophore and the other half with a red fluorophore;

Fig. 7 shows the translation of the hybridization image of Fig. 6 into a karyotype of the yeast genome, where the elements of Fig. 6 microarray contain yeast DNA sequences that have been previously physically mapped in the yeast genome;

Fig. 8 show a fluorescent image of a 0.5 cm x 0.5 cm microarray of 24 cDNA clones, where the microarray was hybridized simultaneously with total cDNA from wild type *Arabidopsis* plant labeled with a green fluorophore and total cDNA from a transgenic *Arabidopsis* plant labeled with a red fluorophore, and the arrow points to the cDNA clone representing the gene introduced into the transgenic *Arabidopsis* plant;

Fig. 9 shows a plan view of substrate having an array of cells formed by barrier elements in the form of a grid;

Fig. 10 shows an enlarged plan view of one of the cells in the substrate in Fig. 9, showing an array of polynucleotide regions in the cell;

Fig. 11 is an enlarged sectional view of the substrate in Fig. 9, taken along a section line in that figure; and

Fig. 12 is a scanned image of a 3 cm x 3 cm nitrocellulose solid support containing four identical

arrays of M13 clones in each of four quadrants, where each quadrant was hybridized simultaneously to a different oligonucleotide using an open face hybridization method.

5. One skilled in the art will appreciate that the following Detailed Description of the Invention

I. Definitions *Definitions of terms used in this invention.* Unless indicated otherwise, the terms defined below have the following meanings:

10. "Ligand" refers to one member of a ligand/anti-ligand binding pair. The ligand may be, for example, one of the nucleic acid strands in a complementary, hybridized nucleic acid duplex binding pair; an effector molecule in an effector/receptor binding pair; or an antigen in an antigen/antibody or antigen/antibody fragment binding pair.

15. "Antiligand" refers to the opposite member of a ligand/anti-ligand binding pair. The antiligand may be the other of the nucleic acid strands in a complementary, hybridized nucleic acid duplex binding pair; the receptor molecule in an effector/receptor binding pair; or an antibody or antibody fragment molecule in antigen/antibody or antigen/antibody fragment binding pair, respectively.

20. "Analyte" or "analyte molecule" refers to a molecule, typically a macromolecule, such as a polynucleotide or polypeptide, whose presence, amount, and/or identity are to be determined. The analyte is one member of a ligand/anti-ligand pair.

25. "Analyte-specific assay reagent" refers to a molecule effective to bind specifically to an analyte molecule. The reagent is the opposite member of a ligand/anti-ligand binding pair.

30. An "array of regions on a solid support" is a linear or two-dimensional array of preferably discrete

regions, each having a finite area, formed on the surface of a solid support.

5 A "microarray" is an array of regions having a density of discrete regions of at least about 100/cm², and preferably at least about 1000/cm². The regions in a microarray have typical dimensions, e.g., diameters, in the range of between about 10-250 μ m, and are separated from other regions in the array by about the same distance.

10 A support surface is "hydrophobic" if a aqueous-medium droplet applied to the surface does not spread out substantially beyond the area size of the applied droplet. That is, the surface acts to prevent spreading of the droplet applied to the surface by hydrophobic interaction with the droplet.

15 A "meniscus" means a concave or convex surface that forms on the bottom of a liquid in a channel as a result of the surface tension of the liquid.

20 "Distinct biopolymers", as applied to the biopolymers forming a microarray, means an array member which is distinct from other array members on the basis of a different biopolymer sequence, and/or different concentrations of the same or distinct biopolymers, and/or different mixtures of distinct or different-concentration biopolymers. Thus an array of "distinct polynucleotides" means an array containing, as its members, (i) distinct polynucleotides, which may have a defined amount in each member, (ii) different, graded concentrations of given-sequence polynucleotides, and/or (iii) different-composition mixtures of two or more distinct polynucleotides.

25 "Cell type" means a cell from a given source, e.g., a tissue, or organ, or a cell in a given state of

differentiation, or a cell associated with a given pathology or genetic makeup. In addition, and in addition to the above, the array may have a new diagnostic (e.g.,

II. Method of Microarray Formation

15. This section describes a method of forming a microarray of analyte-assay regions on a solid support or substrate, where each region in the array has a known amount of a selected, analyte-specific reagent.

20. Fig. 1 illustrates, in a partially schematic view, a reagent-dispensing device 10 useful in practicing the method. The device generally includes a reagent dispenser 12 having an elongate open capillary channel 14 adapted to hold a quantity of the reagent solution, such as indicated at 16, as will be described below.

25. The capillary channel is formed by a pair of spaced-apart, coextensive, elongate members 12a, 12b which are tapered toward one another and converge at a tip or tip region 18 at the lower end of the channel. More generally, the open channel is formed by at least two elongate, spaced-apart members adapted to hold a quantity of reagent solutions and having a tip region at which aqueous solution in the channel forms a meniscus, such as the concave meniscus illustrated at 20 in Fig. 2A. The advantages of the open channel construction of the dispenser are discussed below.

30. With continued reference to Fig. 1, the dispenser device also includes structure for moving the dispenser rapidly toward and away from a support surface, for effecting deposition of a known amount of solution in the dispenser on a support, as will be described below with reference to Figs. 2A-2C. In the embodiment shown, this structure includes a solenoid 22 which is activatable to draw a solenoid piston 24 rapidly downwardly, then release the piston, e.g., under spring bias, to a normal, raised position, as shown. The

dispenser is carried on the piston by a connecting member 26, as shown. The just-described moving structure is also referred to herein as dispensing means for moving the dispenser into engagement with a solid support, for dispensing a known volume of fluid on the support.

The dispensing device just described is carried on an arm 28 that may be moved either linearly or in an x-y plane to position the dispenser at a selected deposition position, as will be described.

FIGS. 2A-2C illustrate the method of depositing a known amount of reagent solution in the just-described dispenser on the surface of a solid support, such as the support indicated at 30. The support is a polymer, glass, or other solid-material support having a surface indicated at 31.

In one general embodiment, the surface is a relatively hydrophilic, i.e., wettable surface, such as a surface having native, bound or covalently attached charged groups. On such surface described below is a glass surface having an absorbed layer of a polycationic polymer, such as poly-l-lysine.

In another embodiment, the surface has or is formed to have a relatively hydrophobic character, i.e., one that causes aqueous medium deposited on the surface to bead. A variety of known hydrophobic polymers, such as polystyrene, polypropylene, or polyethylene have desired hydrophobic properties, as do glass and a variety of lubricant or other hydrophobic films that may be applied to the support surface.

Initially, the dispenser is loaded with a selected analyte-specific reagent solution, such as by dipping the dispenser tip, after washing, into a solution of the reagent, and allowing filling by capillary flow into the dispenser channel. The dispenser is now moved

to a selected position with respect to a support surface, placing the dispenser tip directly above the support-surface position at which the reagent is to be deposited. This movement takes place with the dispenser tip in its raised position, as seen in Fig. 2A, where the tip is typically at least several 1-5 mm above the surface of the substrate. With the dispenser so positioned, solenoid 22 is now activated to cause the dispenser tip to move rapidly toward and away from the substrate surface, making momentary contact with the surface, in effect, tapping the tip of the dispenser against the support surface. The tapping movement of the tip against the surface acts to break the liquid meniscus in the tip channel, bringing the liquid in the tip into contact with the support surface. This, in turn, produces a flowing of the liquid into the capillary space between the tip and the surface, acting to draw liquid out of the dispenser channel, as seen in Fig. 2B.

Fig. 2C shows flow of fluid from the tip onto the support surface, which in this case is a hydrophobic surface. The figure illustrates that liquid continues to flow from the dispenser onto the support surface until it forms a liquid bead 32. At a given bead size, i.e., volume, the tendency of liquid to flow onto the surface will be balanced by the hydrophobic surface interaction of the bead with the support surface, which acts to limit the total bead area on the surface, and by the surface tension of the droplet, which tends toward a given bead curvature. At this point, a given bead volume will have formed, and continued contact of the dispenser tip with the bead, as the dispenser tip is being withdrawn, will have little or no effect on bead volume.

For liquid-dispensing on a more hydrophilic surface, the liquid will have less of a tendency to bead, and the dispensed volume will be more sensitive to the total dwell time of the dispenser tip in the immediate vicinity of the support surface, e.g., the positions illustrated in Figs. 2B and 2C. The desired deposition volume, i.e., bead volume, formed by this method is preferably in the range 2 pl (picoliters) to 2 nl (nanoliters), although volumes as high as 100 nl or more may be dispensed. It will be appreciated that the selected dispensed volume will depend on (i) the "footprint" of the dispenser tip, i.e., the size of the area spanned by the tip, (ii) the hydrophobicity of the support surface, and (iii) the time of contact with and rate of withdrawal of the tip from the support surface. In addition, bead size may be reduced by increasing the viscosity of the medium, effectively reducing the flow time of liquid from the dispenser onto the support surface. The drop size may be further constrained by depositing the drop in a hydrophilic region surrounded by a hydrophobic grid pattern on the support surface. In a typical embodiment, the dispenser tip is tapped rapidly against the support surface, with a total residence time in contact with the support of less than about 1 msec, and a rate of upward travel from the surface of about 10 cm/sec. Assuming that the bead that forms on contact with the surface is a hemispherical bead, with a diameter approximately equal to the width of the dispenser tip, as shown in Fig. 2C, the volume of the bead formed in relation to dispenser tip width (d) is given in Table 1 below. As seen, the volume of the bead ranges between 2 pl to 2 nl as the width size is increased from about 20 to 200 μ m.

Table 1: Bead volume deposited at a given tip size.

Tip size (μm)	Volume (nl)
20 μm	2.1×10^{-3} nl
50 μm	3.1×10^{-2}
100 μm	2.5×10^{-1}
200 μm	2

At a given tip size, bead volume can be reduced in a controlled fashion by increasing surface hydrophobicity, reducing time of contact of the tip with the surface, increasing rate of movement of the tip away from the surface, and/or increasing the viscosity of the medium. Once these parameters are fixed, a selected deposition volume in the desired pl to nl range can be achieved in a repeatable fashion.

After depositing a bead at one selected location on a support, the tip is typically moved to a corresponding position on a second support, a droplet is deposited at that position, and this process is repeated until a liquid droplet of the reagent has been deposited at a selected position on each of a plurality of supports.

The tip is then washed to remove the reagent liquid, filled with another reagent liquid and this reagent is now deposited at each another array position on each of the supports. In one embodiment, the tip is washed and refilled by the steps of (i) dipping the capillary channel of the device in a wash solution, (ii) removing wash solution drawn into the capillary channel, and (iii) dipping the capillary channel into the new reagent solution.

From the foregoing, it will be appreciated that the tweezers-like, open-capillary dispenser tip

provides the advantages that (i) the open channel of the tip facilitates rapid, efficient washing and drying before reloading the tip with a new reagent, (ii) a small amount of passive capillary action can load the sample directly from a standard microwell plate while retaining a sufficient sample in the open capillary reservoir for the printing of numerous arrays, (iii) open capillaries are less prone to clogging than closed capillaries, and (iv) open capillaries do not require a perfectly faced bottom surface for fluid delivery.

A portion of a microarray 36 formed on the surface 38 of a solid support 40 in accordance with the method just described is shown in Fig. 3. The array is formed of a plurality of analyte-specific reagent regions, such as regions 42, where each region may include a different analyte-specific reagent. As indicated above, the diameter of each region is preferably between about 20-200 μm . The spacing between each region and its closest (non-diagonal) neighbor, measured from center-to-center (indicated at 44), is preferably in the range of about 20-400 μm . Thus, for example, an array having a center-to-center spacing of about 250 μm contains about 40 regions/cm or 1,600 regions/cm². After formation of the array, the support is treated to evaporate the liquid of the droplet forming each region, to leave a desired array of dried, relatively flat regions. This drying may be done by heating or under vacuum.

In some cases, it is desired to first rehydrate the droplets containing the analyte reagents to allow for more time for adsorption to the solid support. It is also possible to spot out the analyte reagents in a humid environment so that droplets do not dry until the arraying operation is complete.

III. Automated Apparatus for Forming Arrays

5 In another aspect, the invention includes an automated apparatus for forming an array of analyte-assay regions on a solid support, where each region in the array has a known amount of a selected, analyte-specific reagent, resulting in a spatial or position-

10 The apparatus is shown in planar, and partially schematic view in Fig. 4. A dispenser device 72 in the apparatus has the basic construction described above with respect to Fig. 1, and includes a dispenser 74 having an open-capillary channel terminating at a tip, substantially as shown in Figs. 1 and 2A-2C.

15 The dispenser is mounted in the device for movement toward and away from a dispensing position at which the tip of the dispenser taps a support surface, to dispense a selected volume of reagent solution, as described above. This movement is effected by a solenoid 76 as described above. Solenoid 76 is under the control of a control unit 77 whose operation will 20 be described below. The solenoid is also referred to herein as dispensing means for moving the device into tapping engagement with a support, when the device is positioned at a defined array position with respect to that support.

25 The dispenser device is carried on an arm 74 which is threadedly mounted on a worm screw 80 driven (rotated) in a desired direction by a stepper motor 82, also under the control of unit 77. At its left end in the figure screw 80 is carried in a sleeve 84 for rotation about the screw axis. At its other end, the screw is mounted to the drive shaft of the stepper motor, which in turn is carried on a sleeve 86. The dispenser device, worm screw, the two sleeves mounting the worm screw, and the stepper motor used in moving 30 the device in the "x" (horizontal) direction in the

the dispensing unit, and the dispensing element, figure form what is referred to here collectively as a displacement assembly 86.

The displacement assembly is constructed to produce precise, micro-range movement in the direction of the screw, i.e., along an x axis in the figure. In one mode, the assembly functions to move the dispenser in x-axis increments having a selected distance in the range 5-25 μm . In another mode, the dispenser unit may be moved in precise x-axis increments of several microns or more, for positioning the dispenser at associated positions on adjacent supports, as will be described below.

The displacement assembly, in turn, is mounted for movement in the "y" (vertical) axis of the figure, for positioning the dispenser at a selected y axis position. The structure mounting the assembly includes a fixed rod 88 mounted rigidly between a pair of frame bars 90, 92, and a worm screw 94 mounted for rotation between a pair of frame bars 96, 98. The worm screw is driven (rotated) by a stepper motor 100 which operates under the control of unit 77. The motor is mounted on bar 96, as shown.

The structure just described, including worm screw 94 and motor 100, is constructed to produce precise, micro-range movement in the direction of the screw, i.e., along an y axis in the figure. As above, the structure functions in one mode to move the dispenser in y-axis increments having a selected distance in the range 5-250 μm , and in a second mode, to move the dispenser in precise y-axis increments of several microns (μm) or more, for positioning the dispenser at associated positions on adjacent supports.

The displacement assembly and structure for moving this assembly in the y axis are referred to herein collectively as positioning means for positioning the

dispensing device at a selected array position with respect to a support.

5 A holder 102 in the apparatus functions to hold a plurality of supports, such as supports 104 on which the microarrays of reagent regions are to be formed by the apparatus. The holder provides a number of 106 with recessed slots, such as slot 106, which receive the supports, and position them at precise selected positions with respect to the frame/bars on which the 10 dispenser moving means is mounted.

15 As noted above, the control unit in the device functions to actuate the two stepper motors and the dispenser solenoid in a sequence designed for automated operation of the apparatus in forming a selected microarray of reagent regions on each of a plurality of supports.

20 The control unit is constructed, according to conventional microprocessor control principles, to provide appropriate signals to each of the solenoid and each of the stepper motors, in a given timed sequence and for appropriate signalling time. The construction of the unit, and the settings that are selected by the user to achieve a desired array pattern, will be understood from the following description of a typical 25 apparatus operation.

Initially, one or more supports are placed in one or more slots in the holder. The dispenser is then moved to a position directly above a well (not shown) containing a solution of the first reagent to be dispensed on the support(s). The dispenser solenoid is actuated now to lower the dispenser tip into this well, causing the capillary channel in the dispenser to fill. Motors 82, 100 are now actuated to position the dispenser at a selected array position at the first of 30 the supports. Solenoid actuation of the dispenser is 35

then effective to dispense a selected-volume droplet of that reagent at this location. As noted above, this operation is effective to dispense a selected volume preferably between 0.2 μ l and 2 μ l of the reagent.

5 solution. After all the dispensing step, the system is again empty. The dispenser is now moved to the corresponding position at an adjacent support and a similar volume of the solution is dispensed at this position. The above process is repeated until the reagent has been 10 dispensed at this preselected corresponding position on each of the supports. (second direction: repeat.)

15 Where it is desired to dispense a single reagent at more than two array positions on a support, the dispenser may be moved to different array positions at each support, before moving the dispenser to a new support, or solution can be dispensed at individual positions on each support, at one selected position, then the cycle repeated for each new array position.

20 To dispense the next reagent, the dispenser is positioned over a wash solution (not shown), and the dispenser tip is dipped in and out of this solution until the reagent solution has been substantially 25 washed from the tip. Solution can be removed from the tip, after each dipping, by vacuum, compressed air spray, sponge, or the like.

The dispenser tip is now dipped in a second reagent well, and the filled tip is moved to a second selected array position in the first support. The process of dispensing reagent at each of the 30 corresponding second-array positions is then carried as above. This process is repeated until an entire microarray of reagent solutions on each of the supports has been formed.

35 IV. Microarray Substrate

This section describes embodiments of a substrate having a microarray of biological polymers carried on the substrate surface. Subsection A describes a multi-cell substrate, each cell of which contains a microarray, and preferably an identical microarray, of distinct biopolymers, such as distinct polynucleotides, formed on a porous surface. Subsection B describes a microarray of distinct polynucleotides bound on a glass slide coated with a polycationic polymer.

10 surface with a plurality of regions of DNA sample in regions A. **Multi-Cell Substrate** conditions which allow Fig. 9 illustrates, in plan view, a substrate 110 constructed according to the invention. The substrate has an 8 x 12 rectangular array 112 of cells, such as 15 cells 114, 116, formed on the substrate surface. With reference to Fig. 10, each cell, such as cell 114, in turn supports a microarray 118 of distinct biopolymers, such as polypeptides or polynucleotides at known, addressable regions of the microarray. Two such 20 regions forming the microarray are indicated at 120, and correspond to regions, such as regions 42, forming the microarray of distinct biopolymers shown in Fig. 3. The 96-cell array shown in Fig. 9 has typically array dimensions between about 12 and 244 mm in width 25 and 8 and 400 mm in length, with the cells in the array having width and length dimension of 1/12 and 1/8 the array width and length dimensions, respectively, i.e., between about 1 and 20 in width and 1 and 50 mm in length.

30 The construction of substrate is shown cross-sectionally in Fig. 11, which is an enlarged sectional view taken along view line 124 in Fig. 9. The substrate includes a water-impermeable backing 126, such as a glass slide or rigid polymer sheet. Formed 35 on the surface of the backing is a water-permeable film

128. The film is formed of a porous membrane material, such as nitrocellulose membrane, or a porous webbed material, such as anylon, polypropylene, or PVDF porous polymer materials. The thickness of the film is 5 preferably between about 10 and 1000 μm . The film may be applied to the backing by spraying or coating an uncured material on the backing, or, by applying a preformed membrane to the backing. The backing and the film may be obtained as a preformed unit from 10 commercial source, e.g., a plastic-backed nitrocellulose film available from Schleicher and Schuell Corporation. With continued reference to Fig. 11, the film-covered surface in the substrate is partitioned into a 15 desired array of cells by water-impermeable grid lines, such as lines 130, 132, which have infiltrated the film down to the level of the backing, and extend above the surface of the film as shown, typically a distance of 100 to 2000 μm above the film surface. 20 The grid lines are formed on the substrate by laying down an uncured or otherwise flowable resin or elastomer solution in an array grid, allowing the material to infiltrate the porous film down to the backing, then curing or otherwise hardening the grid lines to form the cell-array substrate. 25 One preferred material for the grid is a flowable silicone available from Loctite Corporation. The barrier material can be extruded through a narrow syringe (e.g., 22 gauge) using air pressure or 30 mechanical pressure. The syringe is moved relative to the solid support to print the barrier elements as a grid pattern. The extruded bead of silicone wicks into the pores of the solid support and cures to form a shallow waterproof barrier separating the regions of 35 the solid support.

In alternative embodiments, the barrier element can be a wax-based material or a thermoset material such as epoxy. The barrier material can also be a UV-curing polymer which is exposed to UV light after being printed onto the solid support. The barrier material may also be applied to the solid support using printing techniques such as silk-screen printing. The barrier material may also be a heat-seal stamping of the porous solid support which seals its pores and forms a water-impermeable barrier element. The barrier material may also be a shallow grid which is laminated or otherwise adhered to the solid support.

In addition to plastic-backed nitrocellulose, the solid support can be virtually any porous membrane with or without a non-porous backing. Such membranes are readily available from numerous vendors and are made from nylon, PVDF, polysulfone and the like. In an alternative embodiment, the barrier element may also be used to adhere the porous membrane to a non-porous backing in addition to functioning as a barrier to prevent cross contamination of the assay reagents.

In an alternative embodiment, the solid support can be of a non-porous material. The barrier can be printed either before or after the microarray of biomolecules is printed on the solid support.

As can be appreciated, the cells formed by the grid lines and the underlying backing are water-impermeable, having side barriers projecting above the porous film in the cells. Thus, defined-volume samples can be placed in each well without risk of cross-contamination with sample material in adjacent cells. In Fig. 11, defined volumes samples, such as sample 134, are shown in the cells.

As noted above, each well contains a microarray of distinct biopolymers. In one general embodiment, the

microarrays in the well are identical arrays of distinct biopolymers, e.g., different sequence polynucleotides. Such arrays can be formed in accordance with the methods described in Section II, by 5 depositing a first selected polynucleotide at the same selected microarray position in each of the cells, then depositing a second polynucleotide at a different microarray position in each well, and so on until a complete, identical microarray is formed in each cell.

10 In a preferred embodiment, each microarray array contains about 10^3 distinct polynucleotide or polypeptide biopolymers per surface area of less than about 1 cm^2 . Also in a preferred embodiment, the biopolymers in each microarray region are present in a 15 defined amount between about 0.1 femtomoles and 100 nanomoles. The ability to form high-density arrays of biopolymers, where each region is formed of a well-defined amount of deposited material, can be achieved in accordance with the microarray-forming method 20 described in Section II.

Also in a preferred embodiment, the biopolymers are polynucleotides having lengths of at least about 50 bp, i.e., substantially longer than oligonucleotides which can be formed in high-density arrays by schemes 25 involving parallel, step-wise polymer synthesis on the array surface.

In the case of a polynucleotide array, in an assay procedure, a small volume of the labeled DNA probe mixture in a standard hybridization solution is loaded 30 onto each cell. The solution will spread to cover the entire microarray and stop at the barrier elements. The solid support is then incubated in a humid chamber at the appropriate temperature as required by the assay.

Each assay may be conducted in an "open-face" format where no further sealing step is required, since the hybridization solution will be kept properly hydrated by the water vapor in the humid chamber. At the conclusion of the incubation step, the entire solid support containing the numerous microarrays is rinsed quickly enough to dilute the assay reagents so that no significant cross contamination occurs. The entire solid support is then reacted with detection reagents if needed and analyzed using standard colorimetric, radioactive or fluorescent detection means. All of the processing and detection steps are performed simultaneously to all of the microarrays on the solid support ensuring uniform assay conditions for all of the microarrays on the solid support.

DETAILED DESCRIPTION OF THE INVENTION

B. Glass-Slide Polynucleotide Array

Fig. 5 shows a substrate 136 formed according to another aspect of the invention, and intended for use in detecting binding of labeled polynucleotides to one or more of a plurality of distinct polynucleotides. The substrate includes a glass substrate 138 having formed on its surface, a coating of a polycationic polymer, preferably a cationic polypeptide, such as polylysine or polyarginine. Formed on the polycationic coating is a microarray 140 of distinct polynucleotides, each localized at known selected array regions, such as regions 142.

The slide is coated by placing a uniform-thickness film of a polycationic polymer, e.g., poly-L-lysine, on the surface of a slide and drying the film to form a dried coating. The amount of polycationic polymer added is sufficient to form at least a monolayer of polymers on the glass surface. The polymer film is bound to surface via electrostatic binding between

negative silyl-OH groups on the surface and charged amine groups in the polymers. Poly-L-lysine coated glass slides may be obtained commercially, e.g., from Sigma Chemical Co. (St. Louis, MO).

To form the microarray, defined volumes of distinct polynucleotides are deposited on the polymer-coated slide, as described in Section II. According to an important feature of the substrate, the deposited polynucleotides remain bound to the coated slide surface non-covalently when an aqueous DNA sample is applied to the substrate under conditions which allow hybridization of reporter-labeled polynucleotides in the sample to complementary-sequence (single-stranded) polynucleotides in the substrate array. The method is illustrated in Examples 1 and 2.

To illustrate this feature, a substrate of the type just described, but having an array of same-sequence polynucleotides, was mixed with fluorescent-labeled complementary DNA under hybridization conditions. After washing to remove non-hybridized material, the substrate was examined by low-power fluorescence microscopy. The array can be visualized by the relatively uniform labeling pattern of the array regions.

In a preferred embodiment, each microarray contains at least 10^3 distinct polynucleotide or polypeptide biopolymers per surface area of less than about 1 cm^2 . In the embodiment shown in Fig. 5, the microarray contains 400 regions in an area of about 16 mm^2 , or 2.5×10^3 regions/ cm^2 . Also in a preferred embodiment, the polynucleotides in the each microarray region are present in a defined amount between about 0.1 femtmoles and 100 nanomoles in the case of polynucleotides. As above, the ability to form high-

density arrays of this type, where each region is formed of a well-defined amount of deposited material, can be achieved in accordance with the microarray-forming method described in Section II.

5 Also in a preferred embodiment, the resulting polynucleotides have lengths of at least about 50 bp, i.e., substantially longer than oligonucleotides which can be formed in high-density arrays by various in situ synthesis schemes.

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patient's DNA which will preferentially interact with only one of the immobilized versions of the gene. It may also be The detection of this interaction can lead to a medical diagnosis. Arrays of immobilized DNA fragments 5 can also be used in DNA probe diagnostics. For example, the identity of a pathogenic microorganism can be established unambiguously by hybridizing a sample of the unknown pathogen's DNA to an array containing many types of known pathogenic DNA. A similar technique can 10 also be used for unambiguous genotyping of any organism. Other molecules of genetic interest, such as cDNA's and RNA's can be immobilized on the array or alternately used as the labeled probe mixture that is applied to the array. 15 In one application, an array of cDNA clones representing genes is hybridized with total cDNA from an organism to monitor gene expression for research or diagnostic purposes. Labeling total cDNA from a normal cell with one color fluorophore and total cDNA from a diseased cell with another color fluorophore and simultaneously hybridizing the two cDNA samples to the same array of cDNA clones allows for differential gene expression to be measured as the ratio of the two fluorophore intensities. This two-color experiment can 20 be used to monitor gene expression in different tissue types, disease states, response to drugs, or response to environmental factors. An example of this approach 25 is illustrated in Examples 2, described with respect to Fig. 8.

30 By way of example and without implying a limitation of scope, such a procedure could be used to simultaneously screen many patients against all known mutations in a disease gene. This invention could be used in the form of, for example, 96 identical 0.9 cm x 35 2.2 cm microarrays fabricated on a single 12 cm x 18 cm

sheet of plastic-backed nitrocellulose where each microarray could contain, for example, 100 DNA fragments representing all known mutations of a given gene. The region of interest from each of the DNA samples from 96 patients could be amplified, labeled, and hybridized to the 96 individual arrays with each assay performed in 100 microliters of hybridization solution. The approximately 1 mm thick silicone rubber barrier elements between individual arrays prevent cross contamination of the patient samples by sealing the pores of the nitrocellulose and by acting as a physical barrier between each microarray. The solid support containing all 96 microarrays assayed with the 96 patient samples is incubated, rinsed, detected and analyzed as a single sheet of material using standard radioactive, fluorescent, or colorimetric detection means (Maniatis, et al., 1989). Previously, such a procedure would involve the handling, processing and tracking of 96 separate membranes in 96 separate sealed chambers. By processing all 96 arrays as a single sheet of material, significant time and cost savings are possible.

The assay format can be reversed where the patient or organism's DNA is immobilized as the array elements and each array is hybridized with a different mutated allele or genetic marker. The gridded solid support can also be used for parallel non-DNA ELISA assays. Furthermore, the invention allows for the use of all standard detection methods without the need to remove the shallow barrier elements to carry out the detection step.

In addition to the genetic applications listed above, arrays of whole cells, peptides, enzymes, antibodies, antigens, receptors, ligands, phospholipids, polymers, drug cogeners preparations or

chemical substances can be fabricated by the means described in this invention for large scale screening assays in medical diagnostics, drug discovery, molecular biology, immunology and toxicology.

15 The multi-cell substrate aspect of the invention allows for the rapid and convenient screening of many DNA probes against many ordered arrays of DNA sequence fragments. This eliminates the need to handle and detect many individual arrays for performing mass

10 screenings for genetic research and diagnostic applications. Numerous microarrays can be fabricated on the same solid support and each microarray reacted with a different DNA probe while the solid support is processed as a single sheet of material.

15 The following examples illustrate, but in no way are intended to limit, the present invention.

Example 1

20 Genomic-Complexity Hybridization to Micro DNA Arrays Representing the Yeast *Saccharomyces cerevisiae* Genome with Two-Color Fluorescent Detection

25 The array elements were randomly amplified PCR (Bohlander, et al., 1992) products using physically mapped lambda clones of *S. cerevisiae* genomic DNA templates (Riles, et al., 1993). The PCR was performed directly on the lambda phage lysates resulting in an amplification of both the 35 kb lambda vector and the

30 5-15 kb yeast insert sequences in the form of a uniform distribution of PCR product between 250-1500 base pairs in length. The PCR product was purified using Sephadex G50 gel filtration (Pharmacia, Piscataway, NJ) and concentrated by evaporation to dryness at room

35 temperature overnight. Each of the 864 amplified

lambda clones was rehydrated in 15 μ l of 3 \times SSC in the preparation for spotting onto the glass.

The microarrays were fabricated on microscope slides which were coated with a layer of poly-L-lysine (Sigma). The automated apparatus described in Section IV loaded 1 μ l of the concentrated lambda clone PCR product in 3 \times SSC directly from 96-well storage plates into the open capillary printing element and deposited ~5 μ l of sample per slide at 380 micron spacing between spots, on each of 40 slides. The process was repeated for all 864 samples and 18 control spots. After the spotting operation was complete, the slides were rehydrated in a humid chamber for 2 hours, baked in a dry 80° vacuum oven for 2 hours, rinsed to remove unabsorbed DNA and then treated with succinic anhydride to reduce non-specific adsorption of the labeled hybridization probe to the poly-L-lysine coated glass surface. Immediately prior to use, the immobilized DNA on the array was denatured in distilled water at 90° for 2 minutes.

For the pooled chromosome experiment, the 16 chromosomes of *Saccharomyces cerevisiae* were separated in a CHEF agarose gel apparatus (Biorad, Richmond, CA). The six largest chromosomes were isolated in one gel slice and the smallest 10 chromosomes in a second gel slice. The DNA was recovered using a gel extraction kit (Qiagen, Chatsworth, CA). The two chromosome pools were randomly amplified in a manner similar to that used for the target lambda clones. Following amplification, 5 micrograms of each of the amplified chromosome pools were separately random-primer labeled using Klenow polymerase (Amersham, Arlington Heights, IL) with a lissamine conjugated nucleotide analog (Dupont NEN, Boston, MA) for the pool containing the six largest chromosomes, and with a fluorescein

conjugated nucleotide analog (BMB) for the pool containing smallest ten chromosomes. The two pools were mixed and concentrated using an ultrafiltration device (Amicon, Danvers, MA).

5 Five micrograms of the hybridization probe, consisting of both chromosome pools in 7.5 μ l of TE was denatured in a boiling water bath and then snap cooled on ice. 2.5 μ l of concentrated hybridization solution (5 \times SSC and 0.1% SDS) was added and all 10 μ l

10 transferred to the array surface, covered with a cover slip, placed in a custom-built single-slide humidity chamber and incubated at 60° for 12 hours. The slides were then rinsed at room temperature in 0.1 \times SSC and 0.1% SDS for 5 minutes, cover slipped and scanned.

15 A custom built laser fluorescent scanner was used to detect the two-color hybridization signals from the 1.8 \times 1.8 cm array at 20 micron resolution. The scanned image was gridded and analyzed using custom image analysis software. After correcting for optical

20 crosstalk between the fluorophores due to their overlapping emission spectra, the red and green hybridization values for each clone on the array were correlated to the known physical map position of the clone resulting in a computer-generated color karyotype

25 of the yeast genome.

Figure 6 shows the hybridization pattern of the two chromosome pools. A red signal indicates that the lambda clone on the array surface contains a cloned genomic DNA segment from one of the largest six yeast chromosomes. A green signal indicates that the lambda clone insert comes from one of the smallest ten yeast chromosomes. Orange signals indicate repetitive sequences which cross hybridized to both chromosome pools. Control spots on the array confirm that the hybridization is specific and reproducible.

The physical map locations of the genomic DNA fragments contained in each of the clones used as array elements have been previously determined by Olson and co-workers (Riles, et al.) allowing for the automatic generation of the color karyotype shown in Figure 7. The color of a chromosomal section on the karyotype corresponds to the color of the array element containing the clone from that section. The black regions of the karyotype represent false negative dark spots on the array (10%) or regions of the genome not covered by the Olson clone library (90%). Note that the largest six chromosomes are mainly red while the smallest ten chromosomes are mainly green matching the original CHEF gel isolation of the hybridization probe. Areas of the red chromosomes containing green spots and vice-versa are probably due to spurious sample tracking errors in the formation of the original library and in the amplification and spotting procedures.

The yeast genome arrays have also been probed with individual clones or pools of clones that are fluorescently labeled for physical mapping purposes. The hybridization signals of these clones to the array were translated into a position on the physical map of yeast.

25

Example 2

Total cDNA Hybridized to Micro Arrays of cDNA Clones with Two-Color Fluorescent Detection

30 24 clones containing cDNA inserts from the plant *Arabidopsis* were amplified using PCR. Salt was added to the purified PCR products to a final concentration of 3 x SSC. The cDNA clones were spotted on poly-L-lysine coated microscope slides in a manner similar to

35 Example 1. Among the cDNA clones was a clone

representing a transcription factor HAT4, which had previously been used to create a transgenic line of the plant *Arabidopsis*, in which this gene is present at ten times the level found in wild-type *Arabidopsis* (Schena, et al., 1992).

Total poly-A mRNA from wild type *Arabidopsis* was isolated using standard methods (Maniatis, et al., 1989) and reverse transcribed into total cDNA, using fluorescein nucleotide analog to label the cDNA product (green fluorescence). A similar procedure was performed with the transgenic line of *Arabidopsis* where the transcription factor HAT4 was inserted into the genome using standard gene transfer protocols. cDNA copies of mRNA from the transgenic plant are labeled with a lissamine nucleotide analog (red fluorescence). Two micrograms of the cDNA products from each type of plant were pooled together and hybridized to the cDNA clone array in a 10 microliter hybridization reaction, in a manner similar to Example 1. Rinsing and detection of hybridization was also performed in a manner similar to Example 1. Fig. 8 show the resulting hybridization pattern of the array.

Genes equally expressed in wild type and the transgenic *Arabidopsis* appeared yellow due to equal contributions of the green and red fluorescence to the final signal. The dots are different intensities of yellow indicating various levels of gene expression. The cDNA clone representing the transcription factor HAT4, expressed in the transgenic line of *Arabidopsis* but not detectably expressed in wild type *Arabidopsis*, appears as a red dot (with the arrow pointing to it), indicating the preferential expression of the transcription factor in the red-labeled transgenic *Arabidopsis* and the relative lack of expression of the

transcription factor in the green-labeled wild type *Arabidopsis* inflorescence. The result shows a good hybridization to *Lang*. An advantage of the microarray hybridization format for gene expression studies is the high partial concentration of each cDNA species achievable in the 10 microliter hybridization reaction. This high partial concentration allows for detection of rare transcripts without the need for PCR amplification of the gene with a hybridization probe which may bias the true genetic representation of each discrete cDNA species.

Gene expression studies such as these can be used for genomics research to discover which genes are expressed in which cell types, disease states, development states or environmental conditions. Gene expression studies can also be used for diagnosis of disease by empirically correlating gene expression patterns to disease states.

Example 3

20 Multiplexed Colorimetric Hybridization on a Gridded Solid Support

A sheet of plastic-backed nitrocellulose was gridded with barrier elements made from silicone rubber according to the description in Section IV-A. The sheet was soaked in 10 x SSC and allowed to dry. As shown in Fig. 12, 192 M13 clones each with a different yeast inserts were arrayed 400 microns apart in four quadrants of the solid support using the automated device described in Section III. The bottom left quadrant served as a negative control for hybridization while each of the other three quadrants was hybridized simultaneously with a different oligonucleotide using the open-face hybridization technology described in Section IV-A. The first two and last four elements of

each array are positive controls for the colorimetric detection step. The negative controls are M13 clones. The oligonucleotides were labeled with fluorescein which was detected using an anti-fluorescein antibody conjugated to alkaline phosphatase that precipitated an NBT/BCIP dye on the solid support (Amersham). Perfect matches between the labeled oligos and the M13 clones resulted in dark spots visible to the naked eye and detected using an optical scanner (HP ScanJet II) attached to a personal computer. The hybridization patterns are different in every quadrant indicating that each oligo found several unique M13 clones from among the 192 with a perfect sequence match. Note that the open capillary printing tip leaves detectable dimples on the nitrocellulose which can be used to automatically align and analyze the images.

Although the invention has been described with respect to specific embodiments and methods, it will be clear that various changes and modification may be made without departing from the invention.

IT IS CLAIMED: The method of claim 1, wherein said array of polymerization is performed on a substrate with a function

1. **A method of forming a microarray of analyte-assay regions on a solid support, where each region in**

5 **the array has a known amount of a selected, analyte-specific reagent, said method comprising,**

(a) **loading a solution of a selected analyte-specific reagent in a reagent-dispensing device having an elongate capillary channel (i) formed by spaced-**

10 **apart, coextensive elongate members, (ii) adapted to hold a quantity of the reagent solution and (iii) having a tip region at which aqueous solution in the channel forms a meniscus,**

15 **(b) tapping the tip of the dispensing device against a solid support at a defined position on the surface, with an impulse effective to break the meniscus in the capillary channel and deposit a selected volume of solution on the surface, and**

20 **(c) repeating steps (a) and (b) until said array is formed.**

25 **2. The method of claim 1, wherein said tapping is carried out with an impulse effective to deposit a selected volume in the volume range between 0.01 to 100 nl.**

30 **3. The method of claim 1, wherein said channel is formed by a pair of spaced-apart tapered elements.**

4. The method of claim 1, for forming a plurality of such arrays, wherein step (b) is applied to a selected position on each of a plurality of solid supports at each repeat cycle proceeding step (c).

5. The method of claim 1, which further includes, after performing steps (a) and (b) at least one time, reloading the reagent-dispensing device with a new reagent solution by the steps of (i) dipping the 5 capillary channel of the device in a wash solution, (ii) removing wash solution drawn into the capillary channel, and (iii) dipping the capillary channel into the new reagent solution.

10 6. Automated apparatus for forming a microarray of analyte-assay regions on a plurality of solid supports, where each region in the array has a known amount of a selected, analyte-specific reagent, said apparatus comprising

15 (a) a holder for holding, at known positions, a plurality of planar supports,

(b) a reagent dispensing device having an open capillary channel (i) formed by spaced-apart, coextensive elongate members (ii) adapted to hold a 20 quantity of the reagent solution and (iii) having a tip region at which aqueous solution in the channel forms a meniscus,

(c) positioning means for positioning the dispensing device at a selected array position with 25 respect to a support in said holder,

(d) dispensing means for moving the device into tapping engagement against a support with a selected impulse, when the device is positioned at a defined array position with respect to that support, with an 30 impulse effective to break the meniscus of liquid in the capillary channel and deposit a selected volume of solution on the surface, and

(e) control means for controlling said positioning and dispensing means.

7. The apparatus of claim 6, wherein said dispensing means is effective to move said dispensing device against a support with an impulse effective to deposit a selected volume in the volume range between 5 0.01 to 100 nL.

8. The apparatus of claim 6, wherein said channel is formed by a pair of spaced-apart tapered elements.

10 9. The apparatus of claim 6, wherein the control means operates to (i) place the dispensing device at a loading station, (ii) move the capillary channel in the device into a selected reagent at the loading station, to load the dispensing device with the reagent, and 15 (iii) dispense the reagent at a defined array position on each of the supports on said holder.

10. The apparatus of claim 6, wherein the control device further operates, at the end of a dispensing 20 cycle, to wash the dispensing device by (i) placing the dispensing device at a washing station, (ii) moving the capillary channel in the device into a wash fluid, to load the dispensing device with the fluid, and (iii) remove the wash fluid prior to loading the dispensing 25 device with a fresh selected reagent.

11. The apparatus of claim 6, wherein said device is one of a plurality of such devices which are carried on the arm for dispensing different analyte assay 30 reagents at selected spaced array positions.

12. A substrate with a surface having a microarray of at least 10^3 distinct polynucleotide or polypeptide biopolymers per 1 cm^2 surface area, each

distinct biopolymer sample (i) being disposed at a separate, defined position in said array, (ii) having a length of at least 50 subunits, and (iii) being present in a defined amount between about 0.1 femtomole and 100 5 nanomoles.

13. The substrate of claim 12, wherein said surface is glass slide coated with polylysine, and said biopolymers are polynucleotides.

10 14. The substrate of claim 12, wherein said substrate has a water-impermeable backing, a water-permeable film formed on the backing, and a grid formed on the film, where said grid (i) is composed of 15 intersecting water-impervious grid elements extending from said backing to positions raised above the surface of said film, and (ii) partitions the film into a plurality of water-impervious cells, where each cell contains such a biopolymer array.

20 15. A substrate with a surface array of sample-receiving cells, comprising
a water-impermeable backing,
a water-permeable film formed on the backing, and
25 a grid formed on the film, said grid being composed of intersecting water-impervious grid elements extending from said backing to positions raised above the surface of said film.

30 16. The substrate of claim 15, wherein the cells of the array each contain an array of biopolymers.

35 17. A substrate for use in detecting binding of labeled biopolymers to one or more of a plurality distinct polynucleotides, comprising

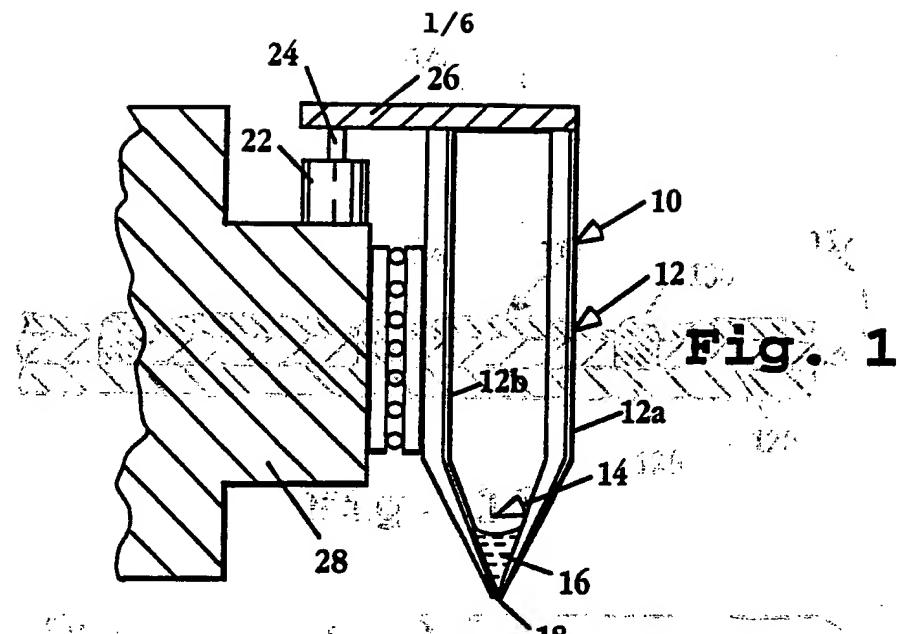
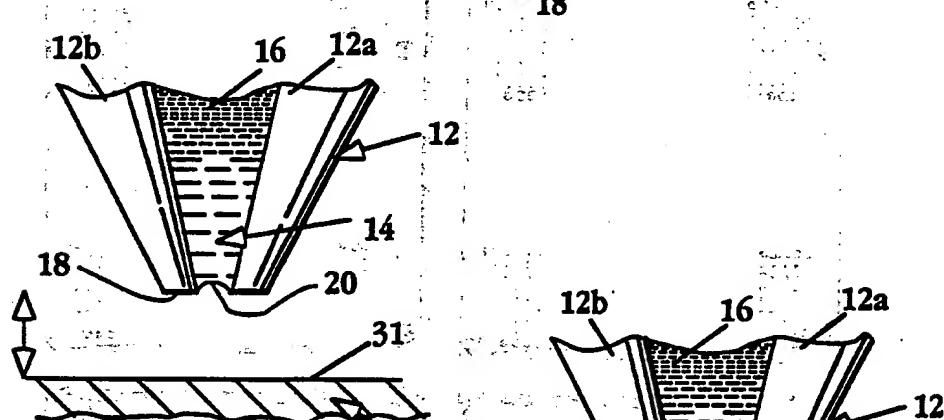
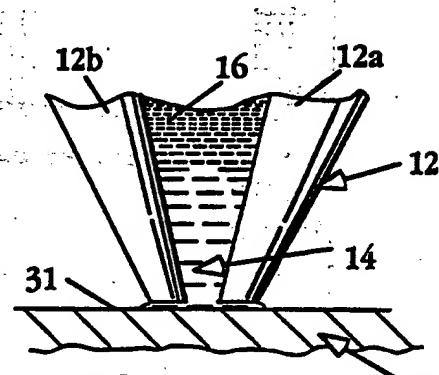
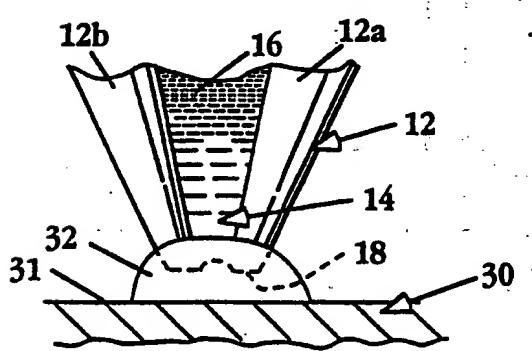
a non-porous, glass substrate,
a coating of a cationic polymer on said substrate,
and
an array of distinct polynucleotides to said
5 coating, where each biopolymer is disposed at a
separate, defined position in a surface array of
biopolymers.

18. A method of detecting differential expression
10 of each of a plurality of genes in a first cell type
with respect to expression of the same genes in a
second cell types, said method comprising
producing fluorescence-labeled cDNA's from mRNA's
isolated from the two cells types, where the cDNA's
15 from the first and second cells are labeled with first
and second different fluorescent reporters,
adding a mixture of the labeled cDNA's from the
two cell types to an array of polynucleotides
representing a plurality of known genes derived from
20 the two cell types, under conditions that result in
hybridization of the cDNA's to complementary-sequence
polynucleotides in the array; and
examining the array by fluorescence under
25 fluorescence excitation conditions in which (i)
polynucleotides in the array that are hybridized
predominantly to cDNA's derived from one of the first
and second cell types give a distinct first or second
fluorescence emission color, respectively, and (ii)
30 polynucleotides in the array that are hybridized to
substantially equal numbers of cDNA's derived from the
first and second cell types give a distinct combined
fluorescence emission color, respectively,
wherein the relative expression of known genes in
35 the two cell types can be determined by the observed
fluorescence emission color of each spot.

19. The method of claim 18, wherein the array of polynucleotides is formed on a substrate with a surface having an array of at least 10^2 distinct polynucleotide or polypeptide biopolymers in a surface area of less than about 1 cm^2 , each distinct biopolymer (i) being disposed at a separate, defined position in said array, (ii) having a length of at least 50 subunits, and (iii) being present in a defined amount between about .1 femtomole and 100 nmoles.

10 20. The method of claim 19, wherein said surface is a glass slide coated with polylysine, and said biopolymers are polynucleotides non-covalently bound to said polylysine.

15

**Fig. 1****Fig. 2A****Fig. 2B****Fig. 2C**

A. CLASSIFICATION OF SUBJECT MATTER

2/6

06 Oct 1995 13:00:00

US CI 102/06 437516

44: Classification (if any) of the invention 36: National N 40: International

B. FIELDS SEARCHED

38

Minimum document search

U.S. 102/06 437516

Documentation search

Electronic data base

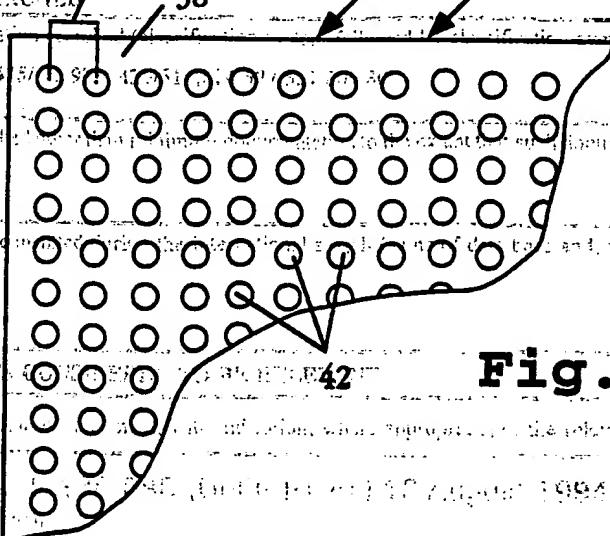


Fig. 3

C. DOCUMENTS CONSIDERED

42

Documentation

Electronic data base

Grid

Other

Grid

Other</

3/6

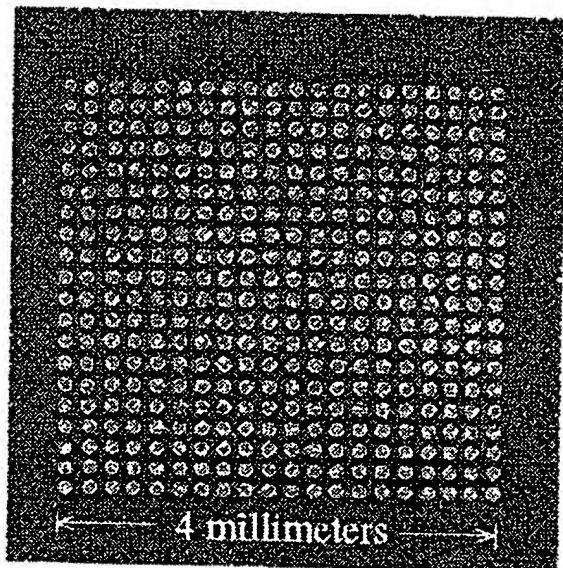


Fig. 5

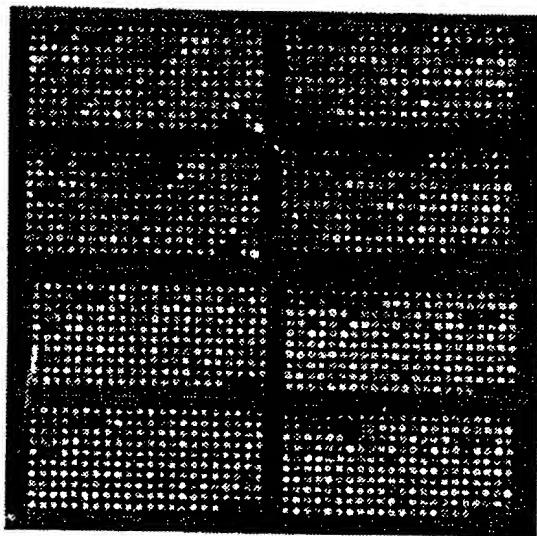


Fig. 6

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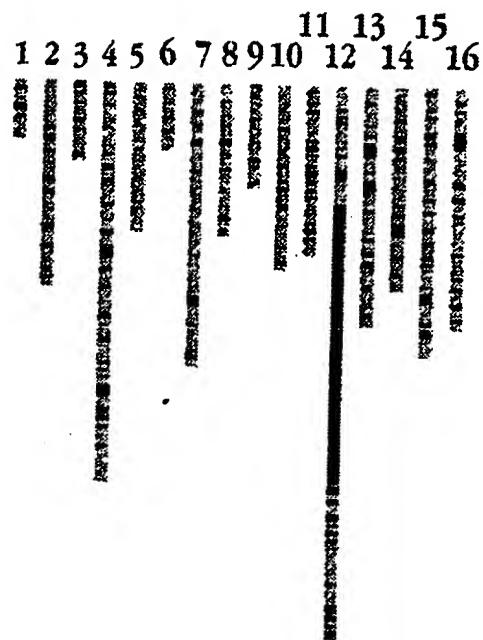


Fig. 7

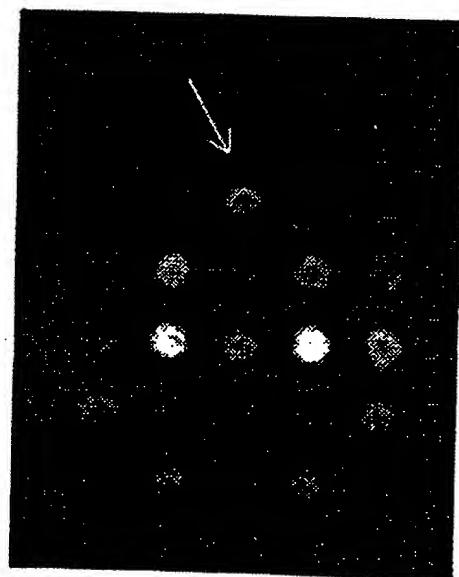
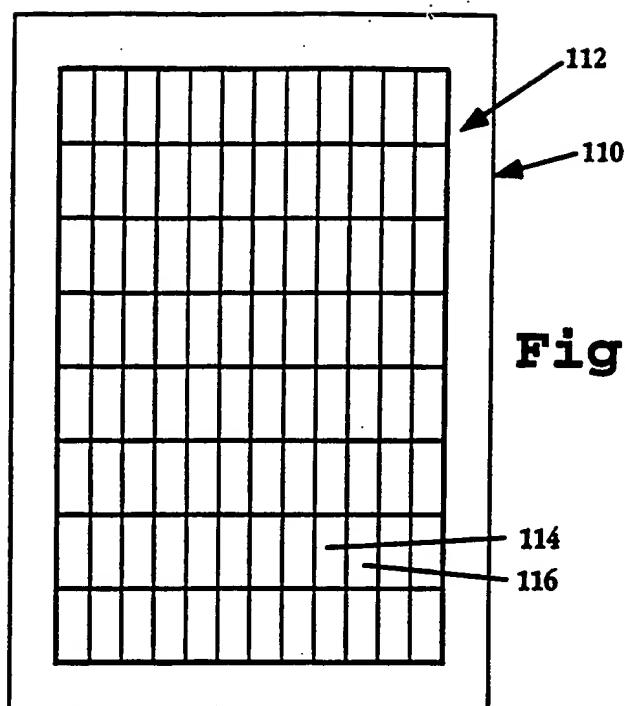
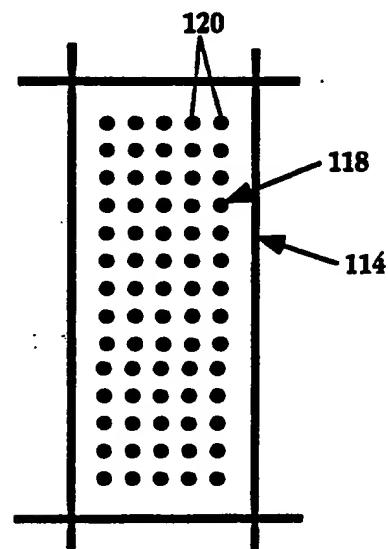


Fig. 8

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**Fig. 9****Fig. 10**

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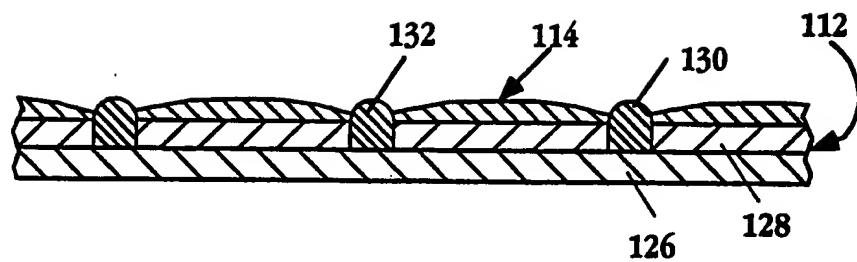


Fig. 11

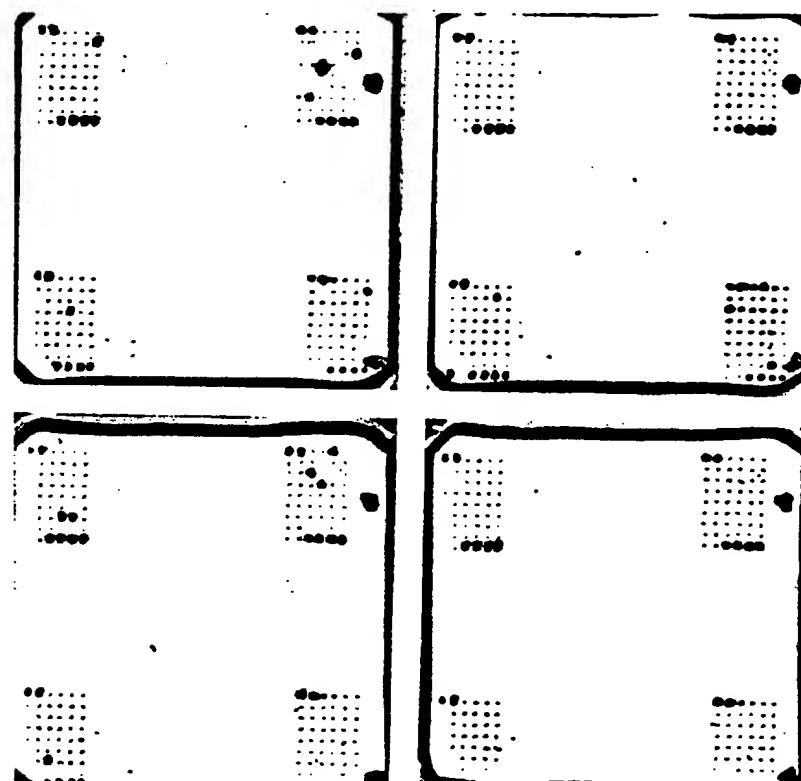


Fig. 12

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INTERNATIONAL SEARCH REPORT

International application No.
PCT/US95/07659

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) :G01N 33/543, 33/68
US CL :435/6; 436/518

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 422/57; 435/4,6,973; 436/518,524,527,531,805,809

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A,P	US, A, 5,338,688 (DEEG ET AL) 16 August 1994, see entire document	1-17
A	US, A, 5,204,268 (MATSUMOTO) 20 April 1993, see entire document.	6-11
A	US, A, 4,071,315 (CHATEAU) 31 January 1978, see entire document.	12-17
A	US, A, 5,100,777 (CHANG) 31 March 1992, see entire document.	12-17
A	US, A, 5,200,312 (OPRANDY) 06 April 1993, see entire document.	12-17

Further documents are listed in the continuation of Box C.

See patent family annex.

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Date of the actual completion of the international search

15 SEPTEMBER 1995

Date of mailing of the international search report

06 OCT 1995

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INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

<p>(51) International Patent Classification 6: C12Q 1/68, C07H 21/04</p>		A1	<p>(11) International Publication Number: WO 97/13877</p> <p>(43) International Publication Date: 17 April 1997 (17.04.97)</p>
<p>(21) International Application Number: PCT/US96/16342</p>		<p>(74) Agent: POWERS, Vincent, M.; Dehlinger & Associates, Post Office Box 60850, Palo Alto, CA 94306-0850 (US).</p>	
<p>(22) International Filing Date: 11 October 1996 (11.10.96)</p>		<p>(81) Designated States: AU, CA, CZ, EE, FI, HU, JP, KR, LT, LV, NO, NZ, PL, RU, SG, US, European patent (AT, BE, CH, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE).</p>	
<p>(30) Priority Data: PCT/US95/12791 12 October 1995 (12.10.95) WO</p>		<p>(34) Countries for which the regional or international application was filed: US et al.</p>	
<p>(34) Countries for which the regional or international application was filed: PCT/US96/09513 6 June 1996 (06.06.96) WO</p>		<p>(34) Countries for which the regional or international application was filed: US et al.</p>	
<p>(60) Parent Application or Grant</p>		<p>(63) Related by Continuation</p>	
<p>US Filed on</p>		<p>Not furnished (CIP) Not furnished</p>	
<p>(71) Applicant (for all designated States except US): LYNX THERAPEUTICS, INC. [US/US]; 3832 Bay Center Place, Hayward, CA 94545 (US).</p>			
<p>(72) Inventor; and (75) Inventor/Applicant (for US only): MARTIN, David, W. [US/US]; Lynx Therapeutics, Inc., 3832 Bay Center Place, Hayward, CA 94545 (US).</p>			
<p>(54) Title: MEASUREMENT OF GENE EXPRESSION PROFILES IN TOXICITY DETERMINATION</p>			
<p>(57) Abstract</p>			
<p>A method is provided for assessing the toxicity of a compound in a test organism by measuring gene expression profiles of selected tissues. Gene expression profiles are measured by massively parallel signature sequencing of cDNA libraries constructed from mRNA extracted from the selected tissues. Gene expression profiles provide extensive information on the effects of administering a compound to a test organism in both acute toxicity tests and in prolonged and chronic toxicity tests.</p>			

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Annex 1

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MEASUREMENT OF GENE EXPRESSION PROFILES IN TOXICITY DETERMINATION

5

Field of the Invention

The invention relates generally to methods for detecting and monitoring phenotypic changes in in vitro and in vivo systems for assessing and/or determining the toxicity of chemical compounds, and more particularly, the invention relates to a method for detecting and monitoring changes in gene expression patterns in in vitro and in vivo systems for determining the toxicity of drug candidates.

BACKGROUND

The ability to rapidly and conveniently assess the toxicity of new compounds is extremely important. Thousands of new compounds are synthesized every year, and many are introduced to the environment through the development of new commercial products and processes, often with little knowledge of their short term and long term health effects. In the development of new drugs, the cost of assessing the safety and efficacy of candidate compounds is becoming astronomical: It is estimated that the pharmaceutical industry spends an average of about 300 million dollars to bring a new pharmaceutical compound to market, e.g. Biotechnology, 13: 226-228 (1995). A large fraction of these costs are due to the failure of candidate compounds in the later stages of the developmental process. That is, as the assessment of a candidate drug progresses from the identification of a compound as a drug candidate--for example, through relatively inexpensive binding assays or in vitro screening assays, to pharmacokinetic studies, to toxicity studies, to efficacy studies in model systems, to preliminary clinical studies, and so on, the costs of the associated tests and analyses increases tremendously. Consequently, it may cost several tens of millions of dollars to determine that a once promising candidate compound possesses a side effect or cross reactivity that renders it commercially infeasible to develop further. A great challenge of pharmaceutical development is to remove from further consideration as early as possible those compounds that are likely to fail in the later stages of drug testing.

Drug development programs are clearly structured with this objective in mind; however, rapidly escalating costs have created a need to develop even more stringent and less expensive screens in the early stages to identify false leads as soon as possible. Toxicity assessment is an area where such improvements may be made, for both drug development and for assessing the environmental, health, and safety effects of new compounds in general.

Typically the toxicity of a compound is determined by administering the compound to one or more species of test animal under controlled conditions and by monitoring the effects on a wide range of parameters. The parameters include such things as blood chemistry, weight gain or loss, a variety of behavioral patterns, muscle tone, body temperature, respiration rate, lethality, and the like, which collectively provide a measure of the state of health of the test animal. The degree of deviation of such parameters from their normal ranges gives a measure of the toxicity of a compound. Such tests may be designed to assess the acute, prolonged, or chronic toxicity of a compound. In general, acute tests involve administration of the test chemical on one occasion. The period of observation of the test animals may be as short as a few hours, although it is usually at least 24 hours and in some cases it may be as long as a week or more. In general, prolonged tests involve administration of the test chemical on multiple occasions. The test chemical may be administered one or more times each day, irregularly as when it is incorporated in the diet, at specific times such as during pregnancy, or in some cases regularly but only at weekly intervals. Also, in the prolonged test the experiment is usually conducted for not less than 90 days in the rat or mouse or a year in the dog. In contrast to the acute and prolonged types of test, the chronic toxicity tests are those in which the test chemical is administered for a substantial portion of the lifetime of the test animal. In the case of the mouse or rat, this is a period of 2 to 3 years. In the case of the dog, it is for 5 to 7 years.

Significant costs are incurred in establishing and maintaining large cohorts of test animals for such assays, especially the larger animals in chronic toxicity assays. Moreover, because of species specific effects, passing such toxicity tests does not ensure that a compound is free of toxic effects when used in humans. Such tests do, however, provide a standardized set of information for judging the safety of new compounds, and they provide a database for giving preliminary assessments of related compounds. An important area for improving toxicity determination would be the identification of new observables which are predictive of the outcome of the expensive and tedious animal assays.

In other medical fields, there has been significant interest in applying recent advances in biotechnology, particularly in DNA sequencing, to the identification and study of differentially expressed genes in healthy and diseased organisms, e.g. Adams et al, *Science*, 252: 1651-1656 (1991); Matsubara et al, *Gene*, 135: 265-274 (1993); Rosenberg et al, International patent application, PCT/US95/01863. The objectives of such applications include increasing our knowledge of disease processes, identifying genes that play important roles in the disease process, and providing diagnostic and therapeutic approaches that exploit the expressed genes or their

products. While such approaches are attractive, those based on exhaustive, or even sampled, sequencing of expressed genes are still beset by the enormous effort required. It is estimated that 30-35 thousand different genes are expressed in a typical mammalian tissue in any given state, e.g. Ausubel et al, Editors, *Current Protocols*, 5.8.1-5.8.4 (John Wiley & Sons, New York, 1992). Determining the sequences of even a small sample of that number of gene products is a major enterprise, requiring industrial-scale resources. Thus, the routine application of massive sequencing of expressed genes is still beyond current commercial technology.

10 The availability of new assays for assessing the toxicity of compounds, such as candidate drugs, that would provide more comprehensive and precise information about the state of health of a test animal would be highly desirable. Such additional assays would preferably be less expensive, more rapid, and more convenient than current testing procedures, and would at the same time provide enough information to make early judgments regarding the safety of new compounds.

15

Summary of the Invention

An object of the invention is to provide a new approach to toxicity assessment based on an examination of gene expression patterns, or profiles, in *in vitro* or *in vivo* test systems.

20

Another object of the invention is to provide a database on which to base decisions concerning the toxicological properties of chemicals, particularly drug candidates.

A further object of the invention is to provide a method for analyzing gene expression patterns in selected tissues of test animals.

25

A still further object of the invention is to provide a system for identifying genes which are differentially expressed in response to exposure to a test compound.

Another object of the invention is to provide a rapid and reliable method for correlating gene expression with short term and long term toxicity in test animals.

30

Another object of the invention is to identify genes whose expression is predictive of deleterious toxicity.

35

The invention achieves these and other objects by providing a method for massively parallel signature sequencing of genes expressed in one or more selected tissues of an organism exposed to a test compound. An important feature of the invention is the application of novel DNA sorting and sequencing methodologies that permit the formation of gene expression profiles for selected tissues by determining the sequence of portions of many thousands of different polynucleotides in parallel. Such profiles may be compared with those from tissues of control organisms at single or multiple time points to identify expression patterns predictive of toxicity.

The sorting methodology of the invention makes use of oligonucleotide tags that are members of a minimally cross-hybridizing set of oligonucleotides. The sequences of oligonucleotides of such a set differ from the sequences of every other member of the same set by at least two nucleotides. Thus, each member of such a set 5 cannot form a duplex (or triplex) with the complement of any other member with less than two mismatches. Complements of oligonucleotide tags of the invention, referred to herein as "tag complements," may comprise natural nucleotides or non-natural nucleotide analogs. Preferably, tag complements are attached to solid phase supports. Such oligonucleotide tags when used with their corresponding tag complements 10 provide a means of enhancing specificity of hybridization for sorting polynucleotides, such as cDNAs.

The polynucleotides to be sorted each have an oligonucleotide tag attached, such that different polynucleotides have different tags. As explained more fully 15 below, this condition is achieved by employing a repertoire of tags substantially greater than the population of polynucleotides and by taking a sufficiently small sample of tagged polynucleotides from the full ensemble of tagged polynucleotides. After such sampling, when the populations of supports and polynucleotides are mixed under conditions which permit specific hybridization of the oligonucleotide tags with 20 their respective complements, identical polynucleotides sort onto particular beads or regions. The sorted populations of polynucleotides can then be sequenced on the solid phase support by a "single-base" or "base-by-base" sequencing methodology, as described more fully below.

In one aspect, the method of the invention comprises the following steps: (a) administering the compound to a test organism; (b) extracting a population of mRNA 25 molecules from each of one or more tissues of the test organism; (c) forming a separate population of cDNA molecules from each population of mRNA molecules extracted from the one or more tissues such that each cDNA molecule of the separate populations has an oligonucleotide tag attached, the oligonucleotide tags being selected from the same minimally cross-hybridizing set; (d) separately sampling each 30 population of cDNA molecules such that substantially all different cDNA molecules within a separate population have different oligonucleotide tags attached; (e) sorting the cDNA molecules of each separate population by specifically hybridizing the oligonucleotide tags with their respective complements, the respective complements being attached as uniform populations of substantially identical complements in 35 spatially discrete regions on one or more solid phase supports; (f) determining the nucleotide sequence of a portion of each of the sorted cDNA molecules of each separate population to form a frequency distribution of expressed genes for each of

the one or more tissues; and (g) correlating the frequency distribution of expressed genes in each of the one or more tissues with the toxicity of the compound.

An important aspect of the invention is the identification of genes whose expression is predictive of the toxicity of a compound. Once such genes are identified, they may be employed in conventional assays, such as reverse transcriptase polymerase chain reaction (RT-PCR) assays for gene expression.

Brief Description of the Drawings

Figure 1 is a flow chart representation of an algorithm for generating minimally cross-hybridizing sets of oligonucleotides.

Figure 2 diagrammatically illustrates an apparatus for carrying out polynucleotide sequencing in accordance with the invention.

Definitions

"Complement" or "tag complement" as used herein in reference to oligonucleotide tags refers to an oligonucleotide to which a oligonucleotide tag specifically hybridizes to form a perfectly matched duplex or triplex. In embodiments where specific hybridization results in a triplex, the oligonucleotide tag may be selected to be either double stranded or single stranded. Thus, where triplexes are formed, the term "complement" is meant to encompass either a double stranded complement of a single stranded oligonucleotide tag or a single stranded complement of a double stranded oligonucleotide tag.

The term "oligonucleotide" as used herein includes linear oligomers of natural or modified monomers or linkages, including deoxyribonucleosides, ribonucleosides, anemic forms thereof, peptide nucleic acids (PNAs), and the like, capable of specifically binding to a target polynucleotide by way of a regular pattern of monomer-to-monomer interactions, such as Watson-Crick type of base pairing, base stacking, Hoogsteen or reverse Hoogsteen types of base pairing, or the like. Usually monomers are linked by phosphodiester bonds or analogs thereof to form oligonucleotides ranging in size from a few monomeric units, e.g. 3-4, to several tens of monomeric units. Whenever an oligonucleotide is represented by a sequence of letters, such as "ATGCCTG," it will be understood that the nucleotides are in 5'→3' order from left to right and that "A" denotes deoxyadenosine, "C" denotes deoxycytidine, "G" denotes deoxyguanosine, and "T" denotes thymidine, unless otherwise noted. Analogs of phosphodiester linkages include phosphorothioate, phosphorodithioate, phosphoranimidate, phosphoramidate, and the like. Usually oligonucleotides of the invention comprise the four natural nucleotides; however, they may also comprise non-natural nucleotide analogs. It is clear to those skilled in the

art when oligonucleotides having natural or non-natural nucleotides may be employed, e.g. where processing by enzymes is called for, usually oligonucleotides consisting of natural nucleotides are required.

"Perfectly matched" in reference to a duplex means that the poly- or 5 oligonucleotide strands making up the duplex form a double stranded structure with one other such that every nucleotide in each strand undergoes Watson-Crick basepairing with a nucleotide in the other strand. The term also comprehends the pairing of nucleoside analogs, such as deoxyinosine, nucleosides with 2-aminopurine bases, and the like, that may be employed. In reference to a triplex, the term means, 10 that the triplex consists of a perfectly matched duplex and a third strand in which every nucleotide undergoes Hoogsteen or reverse Hoogsteen association with a basepair of the perfectly matched duplex. Conversely, a "mismatch" in a duplex between a tag and an oligonucleotide means that a pair or triplet of nucleotides in the duplex or triplex fails to undergo Watson-Crick and/or Hoogsteen and/or reverse 15 Hoogsteen bonding.

As used herein, "nucleoside" includes the natural nucleosides, including 2'-deoxy and 2'-hydroxyl forms, e.g. as described in Kornberg and Baker, DNA Replication, 2nd Ed. (Freeman, San Francisco, 1992). "Analogs" in reference to 20 nucleosides includes synthetic nucleosides having modified base moieties and/or modified sugar moieties, e.g. described by Scheit, Nucleotide Analogs (John Wiley, New York, 1980); Uhlman and Peyman, Chemical Reviews, 90: 543-584 (1990), or the like, with the only proviso that they are capable of specific hybridization. Such 25 analogs include synthetic nucleosides designed to enhance binding properties, reduce complexity, increase specificity, and the like.

As used herein "sequence determination" or "determining a nucleotide 30 sequence" in reference to polynucleotides includes determination of partial as well as full sequence information of the polynucleotide. That is, the term includes sequence comparisons, fingerprinting, and like levels of information about a target polynucleotide, as well as the express identification and ordering of nucleosides, 35 usually each nucleoside, in a target polynucleotide. The term also includes the determination of the identification, ordering, and locations of one, two, or three of the four types of nucleotides within a target polynucleotide. For example, in some embodiments sequence determination may be effected by identifying the ordering and locations of a single type of nucleotide, e.g. cytosines, within the target polynucleotide "CATCGC ..." so that its sequence is represented as a binary code, e.g. "100101 ..." for "C-(not C)-(not C)-C-(not C)-C ..." and the like.

As used herein, the term "complexity" in reference to a population of polynucleotides means the number of different species of molecule present in the population.

5 As used herein, the terms "gene expression profile," and "gene expression pattern" which is used equivalently, means a frequency distribution of sequences of portions of cDNA molecules sampled from a population of tag-cDNA conjugates.

10 Generally, the portions of sequence are sufficiently long to uniquely identify the cDNA from which the portion arose. Preferably, the total number of sequences determined is at least 1000; more preferably, the total number of sequences

15 determined in a gene expression profile is at least ten thousand.

As used herein, "test organism" means any in vitro or in vivo system which provides measurable responses to exposure to test compounds. Typically, test organisms may be mammalian cell cultures, particularly of specific tissues, such as hepatocytes, neurons, kidney cells, colony forming cells, or the like, or test organisms 15 may be whole animals, such as rats, mice, hamsters, guinea pigs, dogs, cats, rabbits, pigs, monkeys, and the like.

Detailed Description of the Invention

The invention provides a method for determining the toxicity of a compound 20 by analyzing changes in the gene expression profiles in selected tissues of test organisms exposed to the compound. The invention also provides a method of identifying toxicity markers consisting of individual genes or a group of genes that is expressed acutely and which is correlated with prolonged or chronic toxicity, or suggests that the compound will have an undesirable cross reactivity. Gene 25 expression profiles are generated by sequencing portions of cDNA molecules construction from mRNA extracted from tissues of test organisms exposed to the compound being tested. As used herein, the term "tissue" is employed with its usual medical or biological meaning, except that in reference to an in vitro test system, such as a cell culture, it simply means a sample from the culture. Gene expression profiles 30 derived from test organisms are compared to gene expression profiles derived from control organisms to determine the genes which are differentially expressed in the test organism because of exposure to the compound being tested. In both cases, the sequence information of the gene expression profiles is obtained by massively parallel signature sequencing of cDNAs, which is implemented in steps (c) through (f) of the 35 above method.

Toxicity Assessment

Procedures for designing and conducting toxicity tests in in vitro and in vivo systems is well known, and is described in many texts on the subject, such as Loomis

et al. Loomis's Essentials of Toxicology, 4th Ed. (Academic Press, New York, 1996); Echobichon, The Basics of Toxicity Testing (CRC Press, Boca Raton, 1992); Frazier, editor. In Vitro Toxicity Testing (Marcel Dekker, New York, 1992); and the like.

5 In toxicity testing, two groups of test organisms are usually employed: one group serves as a control and the other group receives the test compound in a single dose (for acute toxicity tests) or a regimen of doses (for prolonged or chronic toxicity tests). Since in most cases, the extraction of tissue as called for in the method of the invention requires sacrificing the test animal, both the control group and the group receiving compound must be large enough to permit removal of animals for sampling 10 tissues, if it is desired to observe the dynamics of gene expression through the duration of an experiment.

15 In setting up a toxicity study, extensive guidance is provided in the literature for selecting the appropriate test organism for the compound being tested, route of administration, dose ranges, and the like. Water or physiological saline (0.9% NaCl in water) is the solute of choice for the test compound since these solvents permit administration by a variety of routes. When this is not possible because of solubility limitations, it is necessary to resort to the use of vegetable oils such as corn oil or even organic solvents, of which propylene glycol is commonly used. Whenever 20 possible the use of suspension or emulsion should be avoided except for oral administration. Regardless of the route of administration, the volume required to administer a given dose is limited by the size of the animal that is used. It is desirable to keep the volume of each dose uniform within and between groups of animals. When rats or mice are used the volume administered by the oral route should not exceed 0.005 ml per gram of animal. Even when aqueous or physiological saline 25 solutions are used for parenteral injection the volumes that are tolerated are limited, although such solutions are ordinarily thought of as being innocuous. The intravenous LD₅₀ of distilled water in the mouse is approximately 0.044 ml per gram and that of isotonic saline is 0.068 ml per gram of mouse.

30 When a compound is to be administered by inhalation, special techniques for generating test atmospheres are necessary. Dose estimation becomes very complicated. The methods usually involve aerosolization or nebulization of fluids containing the compound. If the agent to be tested is a fluid that has an appreciable vapor pressure, it may be administered by passing air through the solution under controlled temperature conditions. Under these conditions, dose is estimated from the 35 volume of air inhaled per unit time, the temperature of the solution, and the vapor pressure of the agent involved. Gases are metered from reservoirs. When particles of a solution are to be administered, unless the particle size is less than about 2 μm the particles will not reach the terminal alveolar sacs in the lungs. A variety of

apparatuses and chambers are available to perform studies for detecting effects of irritant or other toxic endpoints when they are administered by inhalation. The preferred method of administering an agent to animals is via the oral route, either by intubation or by incorporating the agent in the feed.

5 Preferably, in designing a toxicity assessment, two or more species should be employed that handle the test compound as similarly to man as possible in terms of metabolism, absorption, excretion, tissue storage, and the like. Preferably, multiple doses or regimens at different concentrations should be employed to establish a dose-response relationship with respect to toxic effects. And preferably, the route of 10 administration to the test animal should be the same as, or as similar as possible to, the route of administration of the compound to man. Effects obtained by one route of administration to test animals are not *a priori* applicable to effects by another route of administration to man. For example, food additives for man should be tested by admixture of the material in the diet of the test animals.

15 Acute toxicity tests consist of administering a compound to test organisms on one occasion. The purpose of such test is to determine the symptomatology consequent to administration of the compound and to determine the degree of lethality of the compound. The initial procedure is to perform a series of range-finding doses of the compound in a single species. This necessitates selection of a route of 20 administration, preparation of the compound in a form suitable for administration by the selected route, and selection of an appropriate species. Preferably, initial acute toxicity studies are performed on either rats or mice because of their low cost, their availability, and the availability of abundant toxicologic reference data on these species. Prolonged toxicity tests consist of administering a compound to test 25 organisms repeatedly, usually on a daily basis, over a period of 3 to 4 months. Two practical factors are encountered that place constraints on the design of such tests: First, the available routes of administration are limited because the route selected must be suitable for repeated administration without inducing harmful effects. And second, blood, urine, and perhaps other samples, should be taken repeatedly without 30 inducing significant harm to the test animals. Preferably, in the method of the invention the gene expression profiles are obtained in conjunction with the measurement of the traditional toxicologic parameters, such as listed in the table below:

Hematology	Blood Chemistry	Urine Analyses
erythrocyte count	sodium	pH
total leukocyte count	potassium	specific gravity
differential leukocyte count	chloride	total protein
hematocrit	calcium	sediment
hemoglobin	carbon dioxide	glucose
	serum glutamine-pyruvate	ketones
	transaminase	
	serum glutamin-oxalacetic	bilirubin
	transaminase	
	serum protein	
	electrophoresis	
	blood sugar	
	blood urea nitrogen	
	total serum protein	
	serum albumin	
	total serum bilirubin	

5

Oligonucleotide Tags and Tag Complements

Oligonucleotide tags are members of a minimally cross-hybridizing set of oligonucleotides. The sequences of oligonucleotides of such a set differ from the sequences of every other member of the same set by at least two nucleotides. Thus, each member of such a set cannot form a duplex (or triplex) with the complement of any other member with less than two mismatches. Complements of oligonucleotide tags, referred to herein as "tag complements," may comprise natural nucleotides or non-natural nucleotide analogs. Preferably, tag complements are attached to solid phase supports. Such oligonucleotide tags when used with their corresponding tag complements provide a means of enhancing specificity of hybridization for sorting, tracking, or labeling molecules, especially polynucleotides.

Minimally cross-hybridizing sets of oligonucleotide tags and tag complements may be synthesized either combinatorially or individually depending on the size of the set desired and the degree to which cross-hybridization is sought to be minimized (or stated another way, the degree to which specificity is sought to be enhanced). For example, a minimally cross-hybridizing set may consist of a set of individually synthesized 10-mer sequences that differ from each other by at least 4 nucleotides, such set having a maximum size of 332 (when composed of 3 kinds of nucleotides and counted using a computer program such as disclosed in Appendix Ic). Alternatively, a minimally cross-hybridizing set of oligonucleotide tags may also be

assembled combinatorially from subunits which themselves are selected from a minimally cross-hybridizing set. For example, a set of minimally cross-hybridizing 12-mers differing from one another by at least three nucleotides may be synthesized by assembling 3 subunits selected from a set of minimally cross-hybridizing 4-mers

5 that each differ from one another by three nucleotides. Such an embodiment gives a maximally sized set of 9^3 , or 729, 12-mers. The number 9 is number of oligonucleotides listed by the computer program of Appendix Ia, which assumes, as with the 10-mers, that only 3 of the 4 different types of nucleotides are used. The set is described as "maximal" because the computer programs of Appendices Ia-c provide

10 the largest set for a given input (e.g. length, composition, difference in number of nucleotides between members). Additional minimally cross-hybridizing sets may be formed from subsets of such calculated sets.

Oligonucleotide tags may be single stranded and be designed for specific hybridization to single stranded tag complements by duplex formation or for specific

15 hybridization to double stranded tag complements by triplex formation.

Oligonucleotide tags may also be double stranded and be designed for specific hybridization to single stranded tag complements by triplex formation.

When synthesized combinatorially, an oligonucleotide tag preferably consists of a plurality of subunits, each subunit consisting of an oligonucleotide of 3 to 9

20 nucleotides in length wherein each subunit is selected from the same minimally cross-hybridizing set. In such embodiments, the number of oligonucleotide tags available depends on the number of subunits per tag and on the length of the subunits. The number is generally much less than the number of all possible sequences the length of the tag, which for a tag n nucleotides long would be 4^n .

25 Complements of oligonucleotide tags attached to a solid phase support are used to sort polynucleotides from a mixture of polynucleotides each containing a tag. Complements of the oligonucleotide tags are synthesized on the surface of a solid phase support, such as a microscopic bead or a specific location on an array of synthesis locations on a single support, such that populations of identical sequences

30 are produced in specific regions. That is, the surface of each support, in the case of a bead, or of each region, in the case of an array, is derivatized by only one type of complement which has a particular sequence. The population of such beads or regions contains a repertoire of complements with distinct sequences. As used herein in reference to oligonucleotide tags and tag complements, the term "repertoire" means

35 the set of minimally cross-hybridizing set of oligonucleotides that make up the tags in a particular embodiment or the corresponding set of tag complements.

The polynucleotides to be sorted each have an oligonucleotide tag attached, such that different polynucleotides have different tags. As explained more fully

below, this condition is achieved by employing a repertoire of tags substantially greater than the population of polynucleotides and by taking a sufficiently small sample of tagged polynucleotides from the full ensemble of tagged polynucleotides. After such sampling, when the populations of supports and polynucleotides are mixed under conditions which permit specific hybridization of the oligonucleotide tags with their respective complements, identical polynucleotides sort onto particular beads or regions.

The nucleotide sequences of oligonucleotides of a minimally cross-hybridizing set are conveniently enumerated by simple computer programs, such as those exemplified by programs whose source codes are listed in Appendices Ia and Ib. Program minhx of Appendix Ia computes all minimally cross-hybridizing sets having 4-mer subunits composed of three kinds of nucleotides. Program tagN of Appendix Ib enumerates longer oligonucleotides of a minimally cross-hybridizing set. Similar algorithms and computer programs are readily written for listing oligonucleotides of minimally cross-hybridizing sets for any embodiment of the invention. Table I below provides guidance as to the size of sets of minimally cross-hybridizing oligonucleotides for the indicated lengths and number of nucleotide differences. The above computer programs were used to generate the numbers.

20

Table I

Oligonucleotide Word Length	Nucleotide Difference between Oligonucleotides of Minimally Cross-Hybridizing Set	Maximal Size of Minimally Cross-Hybridizing Set	Size of Repertoire with Four Words	Size of Repertoire with Five Words
4	3	9	6561	5.90×10^4
6	3	27	5.3×10^5	1.43×10^7
7	4	27	5.3×10^5	1.43×10^7
7	5	8	4096	3.28×10^4
8	3	190	1.30×10^9	2.48×10^{11}
8	4	62	1.48×10^7	9.16×10^8
8	5	18	1.05×10^5	1.89×10^6
9	5	39	2.31×10^6	9.02×10^7
10	5	332	1.21×10^{10}	
10	6	28	6.15×10^5	1.72×10^7
11	5	187		
18	6	≈ 25000		

18

12

24

For some embodiments of the invention, where extremely large repertoires of tags are not required, oligonucleotide tags of a minimally cross-hybridizing set may be separately synthesized. Sets containing several hundred to several thousands, or 5 even several tens of thousands, of oligonucleotides may be synthesized directly by a variety of parallel synthesis approaches, e.g. as disclosed in Frank et al, U.S. patent 4,689,405; Frank et al, Nucleic Acids Research, 11: 4365-4377 (1983); Matson et al, Anal. Biochem., 224: 110-116 (1995); Fodor et al, International application PCT/US93/04145; Pease et al, Proc. Natl. Acad. Sci., 91: 5022-5026 (1994); 10 Southern et al, J. Biotechnology, 35: 217-227 (1994), Brennan, International application PCT/US94/05896; Lashkari et al, Proc. Natl. Acad. Sci., 92: 7912-7915 (1995); or the like.

Preferably, oligonucleotide tags of the invention are synthesized combinatorially out of subunits between three and six nucleotides in length and 15 selected from the same minimally cross-hybridizing set. For oligonucleotides in this range, the members of such sets may be enumerated by computer programs based on the algorithm of Fig. 1.

The algorithm of Fig. 1 is implemented by first defining the characteristics of the subunits of the minimally cross-hybridizing set, i.e. length, number of base 20 differences between members, and composition, e.g. do they consist of two, three, or four kinds of bases. A table M_n , $n=1$, is generated (100) that consists of all possible sequences of a given length and composition. An initial subunit S_1 is selected and compared (120) with successive subunits S_i for $i=n+1$ to the end of the table. Whenever a successive subunit has the required number of mismatches to be a 25 member of the minimally cross-hybridizing set, it is saved in a new table M_{n+1} (125), that also contains subunits previously selected in prior passes through step 120. For example, in the first set of comparisons, M_2 will contain S_1 ; in the second set of comparisons, M_3 will contain S_1 and S_2 ; in the third set of comparisons, M_4 will contain S_1 , S_2 , and S_3 ; and so on. Similarly, comparisons in table M_j will be 30 between S_j and all successive subunits in M_j . Note that each successive table M_{n+1} is smaller than its predecessors as subunits are eliminated in successive passes through step 130. After every subunit of table M_n has been compared (140) the old table is replaced by the new table M_{n+1} , and the next round of comparisons are begun. The process stops (160) when a table M_n is reached that contains no 35 successive subunits to compare to the selected subunit S_j , i.e. $M_n=M_{n+1}$.

Preferably, minimally cross-hybridizing sets comprise subunits that make approximately equivalent contributions to duplex stability as every other subunit in

the set. In this way, the stability of perfectly matched duplexes between every subunit and its complement is approximately equal. Guidance for selecting such sets is provided by published techniques for selecting optimal PCR primers and calculating duplex stabilities, e.g. Rychlik et al, Nucleic Acids Research, 17: 8543-8551 (1989) and 18: 6409-6412 (1990); Breslauer et al, Proc. Natl. Acad. Sci., 83: 3746-3750 (1986); Wetmur, Crit. Rev. Biochem. Mol. Biol., 26: 227-259 (1991); and the like. For shorter tags, e.g. about 30 nucleotides or less, the algorithm described by Rychlik and Wetmur is preferred, and for longer tags, e.g. about 30-35 nucleotides or greater, an algorithm disclosed by Suggs et al, pages 683-693 in Brown, editor, ICN-UCLA Symp. Dev. Biol., Vol. 23 (Academic Press, New York, 1981) may be conveniently employed. Clearly, there are many approaches available to one skilled in the art for designing sets of minimally cross-hybridizing subunits within the scope of the invention. For example, to minimize the affects of different base-stacking energies of terminal nucleotides when subunits are assembled, subunits may be provided that have the same terminal nucleotides. In this way, when subunits are linked, the sum of the base-stacking energies of all the adjoining terminal nucleotides will be the same, thereby reducing or eliminating variability in tag melting temperatures.

A "word" of terminal nucleotides, shown in italic below, may also be added to each end of a tag so that a perfect match is always formed between it and a similar terminal "word" on any other tag complement. Such an augmented tag would have the form:

<i>W</i>	<i>W</i> ₁	<i>W</i> ₂	...	<i>W</i> _{k-1}	<i>W</i> _k	<i>W</i>
<i>W'</i>	<i>W</i> ₁ '	<i>W</i> ₂ '	...	<i>W</i> _{k-1} '	<i>W</i> _k '	<i>W'</i>

where the primed W's indicate complements. With ends of tags always forming perfectly matched duplexes, all mismatched words will be internal mismatches thereby reducing the stability of tag-complement duplexes that otherwise would have mismatched words at their ends. It is well known that duplexes with internal mismatches are significantly less stable than duplexes with the same mismatch at a terminus.

A preferred embodiment of minimally cross-hybridizing sets are those whose subunits are made up of three of the four natural nucleotides. As will be discussed more fully below, the absence of one type of nucleotide in the oligonucleotide tags permits target polynucleotides to be loaded onto solid phase supports by use of the 5'→3' exonuclease activity of a DNA polymerase. The following is an exemplary minimally cross-hybridizing set of subunits each comprising four nucleotides selected from the group consisting of A, G, and T:

5

Table II

Word:	w ₁	w ₂	w ₃	w ₄
Sequence:	GATT	TGAT	TAGA	TTTG
Word:	w ₅	w ₆	w ₇	w ₈
Sequence:	GTAA	AGTA	ATGT	AAAG

In this set, each member would form a duplex having three mismatched bases with 10 the complement of every other member.

Further exemplary minimally cross-hybridizing sets are listed below in Table III. Clearly, additional sets can be generated by substituting different groups of nucleotides, or by using subsets of known minimally cross-hybridizing sets.

15

Table III
Exemplary Minimally Cross-Hybridizing Sets of 4-mer Subunits

Set 1	Set 2	Set 3	Set 4	Set 5	Set 6
CATT	ACCC	AAAC	AAAG	AACA	AACG
CTAA	AGGG	ACCA	ACCA	ACAC	ACAA
TCAT	CACG	AGGG	AGGC	AGGG	AGGC
ACTA	CCGA	CACG	CACC	CAAG	CAAC
TACA	CGAC	CCGC	CCGG	CCGC	CCGG
TTTC	GAGC	CGAA	CGAA	CGCA	CGCA
ATCT	GCAG	GAGA	GAGA	GAGA	GAGA
AAAC	GGCA	GCAG	GCAC	GCCG	GCCC
	AAAA	GGCC	GGCG	GGAC	GGAG

<u>Set 7</u>	<u>Set 8</u>	<u>Set 9</u>	<u>Set 10</u>	<u>Set 11</u>	<u>Set 12</u>
AAGA	AAGC	AAGG	ACAG	ACCG	ACGA
ACAC	ACAA	ACAA	AACA	AAAA	AAAC
AGCG	AGCG	AGCC	AGGC	AGGC	AGCG
CAAG	CAAG	CAAC	CAAC	CACC	CACA
CCCA	CCCC	CCCG	CCGA	CCGA	CCAG
CGGC	CGGA	CGGA	CGCG	CGAG	CGGC
GACC	GACA	GACA	GAGG	GAGG	GAGG
GCGG	GCGG	GCGC	GCCC	GCAC	GCCC
GGAA	GGAC	GGAG	GGAA	GGCA	GGAA

The oligonucleotide tags of the invention and their complements are conveniently synthesized on an automated DNA synthesizer, e.g. an Applied Biosystems, Inc. (Foster City, California) model 392 or 394 DNA/RNA Synthesizer, 5 using standard chemistries, such as phosphoramidite chemistry, e.g. disclosed in the following references: Beaucage and Iyer, *Tetrahedron*, 48: 2223-2311 (1992); Molko et al, U.S. patent 4,980,460; Koster et al, U.S. patent 4,725,677; Caruthers et al, U.S. patents 4,415,732; 4,458,066; and 4,973,679; and the like. Alternative chemistries, e.g. resulting in non-natural backbone groups, such as phosphorothioate, 10 phosphoramidate, and the like, may also be employed provided that the resulting oligonucleotides are capable of specific hybridization. In some embodiments, tags may comprise naturally occurring nucleotides that permit processing or manipulation by enzymes, while the corresponding tag complements may comprise non-natural nucleotide analogs, such as peptide nucleic acids, or like compounds, that promote the 15 formation of more stable duplexes during sorting.

When microparticles are used as supports, repertoires of oligonucleotide tags and tag complements may be generated by subunit-wise synthesis via "split and mix" techniques, e.g. as disclosed in Shortle et al, International patent application PCT/US93/03418 or Lytle et al, *Biotechniques*, 19: 274-280 (1995). Briefly, the 20 basic unit of the synthesis is a subunit of the oligonucleotide tag. Preferably, phosphoramidite chemistry is used and 3' phosphoramidite oligonucleotides are prepared for each subunit in a minimally cross-hybridizing set, e.g. for the set first listed above, there would be eight 4-mer 3'-phosphoramidites. Synthesis proceeds as disclosed by Shortle et al or in direct analogy with the techniques employed to 25 generate diverse oligonucleotide libraries using nucleosidic monomers, e.g. as disclosed in Telenius et al, *Genomics*, 13: 718-725 (1992); Welsh et al, *Nucleic Acids Research*, 19: 5275-5279 (1991); Grothues et al, *Nucleic Acids Research*, 21: 1321-1322 (1993); Hartley, European patent application 90304496.4; Lam et al, *Nature*, 354: 82-84 (1991); Zuckerman et al, *Int. J. Pept. Protein Research*, 40: 498-507 30 (1992); and the like. Generally, these techniques simply call for the application of

mixtures of the activated monomers to the growing oligonucleotide during the coupling steps. Preferably, oligonucleotide tags and tag complements are synthesized on a DNA synthesizer having a number of synthesis chambers which is greater than or equal to the number of different kinds of words used in the construction of the tags.

5 That is, preferably there is a synthesis chamber corresponding to each type of word. In this embodiment, words are added nucleotide-by-nucleotide, such that if a word consists of five nucleotides there are five monomer couplings in each synthesis chamber. After a word is completely synthesized, the synthesis supports are removed from the chambers, mixed, and redistributed back to the chambers for the next cycle

10 10 of word addition. This latter embodiment takes advantage of the high coupling yields of monomer addition, e.g. in phosphoramidite chemistries.

15 Double stranded forms of tags may be made by separately synthesizing the complementary strands followed by mixing under conditions that permit duplex formation. Alternatively, double stranded tags may be formed by first synthesizing a single stranded repertoire linked to a known oligonucleotide sequence that serves as a primer binding site. The second strand is then synthesized by combining the single stranded repertoire with a primer and extending with a polymerase. This latter approach is described in Oliphant et al, Gene, 44: 177-183 (1986). Such duplex tags may then be inserted into cloning vectors along with target polynucleotides for sorting

20 20 and manipulation of the target polynucleotide in accordance with the invention.

When tag complements are employed that are made up of nucleotides that have enhanced binding characteristics, such as PNAs or oligonucleotide N3'→P5' phosphoramidates, sorting can be implemented through the formation of D-loops between tags comprising natural nucleotides and their PNA or phosphoramidate complements, as an alternative to the "stripping" reaction employing the 3'→5' exonuclease activity of a DNA polymerase to render a tag single stranded.

25 Oligonucleotide tags of the invention may range in length from 12 to 60 nucleotides or basepairs. Preferably, oligonucleotide tags range in length from 18 to 40 nucleotides or basepairs. More preferably, oligonucleotide tags range in length from 25 to 40 nucleotides or basepairs. In terms of preferred and more preferred numbers of subunits, these ranges may be expressed as follows:

Table IV
Numbers of Subunits in Tags in Preferred Embodiments

35

Monomers in Subunit	Nucleotides in Oligonucleotide Tag		
	(12-60)	(18-40)	(25-40)

3	4-20 subunits	6-13 subunits	8-13 subunits
4	3-15 subunits	4-10 subunits	6-10 subunits
5	2-12 subunits	3-8 subunits	5-8 subunits
6	2-10 subunits	3-6 subunits	4-6 subunits

Most preferably, oligonucleotide tags are single stranded and specific hybridization occurs via Watson-Crick pairing with a tag complement.

Preferably, repertoires of single stranded oligonucleotide tags of the invention contain at least 100 members; more preferably, repertoires of such tags contain at least 1000 members; and most preferably, repertoires of such tags contain at least 10,000 members.

Triplex Tags

In embodiments where specific hybridization occurs via triplex formation, coding of tag sequences follows the same principles as for duplex-forming tags; however, there are further constraints on the selection of subunit sequences. Generally, third strand association via Hoogsteen type of binding is most stable along homopyrimidine-homopurine tracks in a double stranded target. Usually, base triplets form in T-A*T or C-G*C motifs (where "-" indicates Watson-Crick pairing and "*" indicates Hoogsteen type of binding); however, other motifs are also possible. For example, Hoogsteen base pairing permits parallel and antiparallel orientations between the third strand (the Hoogsteen strand) and the purine-rich strand of the duplex to which the third strand binds, depending on conditions and the composition of the strands. There is extensive guidance in the literature for selecting appropriate sequences, orientation, conditions, nucleoside type (e.g. whether ribose or deoxyribose nucleosides are employed), base modifications (e.g. methylated cytosine, and the like) in order to maximize, or otherwise regulate, triplex stability as desired in particular embodiments, e.g. Roberts et al, Proc. Natl. Acad. Sci., 88: 9397-9401 (1991); Roberts et al, Science, 258: 1463-1466 (1992); Roberts et al, Proc. Natl. Acad. Sci., 93: 4320-4325 (1996); Distefano et al, Proc. Natl. Acad. Sci., 90: 1179-1183 (1993); Mergny et al, Biochemistry, 30: 9791-9798 (1991); Cheng et al, J. Am. Chem. Soc., 114: 4465-4474 (1992); Beal and Dervan, Nucleic Acids Research, 20: 2773-2776 (1992); Beal and Dervan, J. Am. Chem. Soc., 114: 4976-4982 (1992); Giovannangeli et al, Proc. Natl. Acad. Sci., 89: 8631-8635 (1992); Moser and Dervan, Science, 238: 645-650 (1987); McShan et al, J. Biol. Chem., 267:5712-5721 (1992); Yoon et al, Proc. Natl. Acad. Sci., 89: 3840-3844 (1992); Blume et al, Nucleic Acids Research, 20: 1777-1784 (1992); Thuong and Helene, Angew. Chem. Int. Ed. Engl.

32: 666-690 (1993); Escude et al, Proc. Natl. Acad. Sci., 93: 4365-4369 (1996); and the like. Conditions for annealing single-stranded or duplex tags to their single-stranded or duplex complements are well known, e.g. Ji et al, Anal. Chem. 65: 1323-1328 (1993); Cantor et al, U.S. patent 5,482,836; and the like. Use of triplex tags has the advantage of not requiring a "stripping" reaction with polymerase to expose the tag for annealing to its complement.

Preferably, oligonucleotide tags of the invention employing triplex hybridization are double stranded DNA and the corresponding tag complements are single stranded. More preferably, 5-methylcytosine is used in place of cytosine in the tag complements in order to broaden the range of pH stability of the triplex formed between a tag and its complement. Preferred conditions for forming triplexes are fully disclosed in the above references. Briefly, hybridization takes place in a concentrated salt solution, e.g. 1.0 M NaCl, 1.0 M potassium acetate, or the like, at pH below 5.5 (or 6.5 if 5-methylcytosine is employed). Hybridization temperature depends on the length and composition of the tag; however, for an 18-20-mer tag of longer, hybridization at room temperature is adequate. Washes may be conducted with less concentrated salt solutions, e.g. 10 mM sodium acetate, 100 mM MgCl₂, pH 5.8, at room temperature. Tags may be eluted from their tag complements by incubation in a similar salt solution at pH 9.0.

Minimally cross-hybridizing sets of oligonucleotide tags that form triplexes may be generated by the computer program of Appendix Ic, or similar programs. An exemplary set of double stranded 8-mer words are listed below in capital letters with the corresponding complements in small letters. Each such word differs from each of the other words in the set by three base pairs.

25

Table V
Exemplary Minimally Cross-Hybridizing
Set of Double Stranded 8-mer Tags

5'-AAGGAGAG	5'-AAAGGGGA	5'-AGAGAAGA	5'-AGGGGGGG
3'-TTCCCTCTC	3'-TTTCCCCCT	3'-TCTCTTCT	3'-TCCCCCCCC
3'-ttccctctc	3'-tttccccct	3'-tctctttct	3'-tccccccccc
5'-AAAAAAA	5'-AAGAGAGA	5'-AGGAAAAG	5'-GAAAGGAG
3'-TTTTTTTT	3'-TTCTCTCT	3'-TCCTTTTC	3'-CTTCTCTC
3'-tttttttt	3'-ttctctct	3'-tcccttttc	3'-ctttctctc
5'-AAAAAGGG	5'-AGAAGAGG	5'-AGGAAGGA	5'-GAAGAAAGG
3'-TTTTCC	3'-TCTTCTCC	3'-TCCTTCCT	3'-CTTCTTCC
3'-tttttccc	3'-tcttcctcc	3'-tcccttcct	3'-cttcttccc
5'-AAAGGAAG	5'-AGAAGGAA	5'-AGGGAAA	5'-GAAGAGAA
3'-TTTCCTTC	3'-TCTTCCTT	3'-TCCCTTTT	3'-CTTCTCTT
3'-tttcccttc	3'-tcttcctt	3'-tccctttt	3'-cttcttctt

5

10

Table VI
Repertoire Size of Various Double Stranded Tags
That Form Triplexes with Their Tag Complements

Oligonucleotid Word Length	Nucleotide Difference between Oligonucleotides of Minimally Cross- Hybridizing Set	Maximal Size of Minimally Cross- Hybridizing Set	Size of Repertoire with Four Words	Size of Repertoire with Five Words
4	2	8	4096	3.2×10^4
6	3	8	4096	3.2×10^4
8	3	16	6.5×10^4	1.05×10^6
10	5	8	4096	
15	5	92		
20	6	765		
20	8	92		
20	10	22		

15

Preferably, repertoires of double stranded oligonucleotide tags of the invention contain at least 10 members; more preferably, repertoires of such tags contain at least 100 members. Preferably, words are between 4 and 8 nucleotides in length for combinatorially synthesized double stranded oligonucleotide tags, and oligonucleotide tags are between 12 and 60 base pairs in length. More preferably, such tags are between 18 and 40 base pairs in length.

Solid Phase Supports

Solid phase supports for use with the invention may have a wide variety of forms, including microparticles, beads, and membranes, slides, plates, micromachined chips, and the like. Likewise, solid phase supports of the invention may comprise a

wide variety of compositions, including glass, plastic, silicon, alkanethiolate-derivatized gold, cellulose, low cross-linked and high cross-linked polystyrene, silica gel, polyamide, and the like. Preferably, either a population of discrete particles are employed such that each has a uniform coating, or population, of complementary sequences of the same tag (and no other), or a single or a few supports are employed with spatially discrete regions each containing a uniform coating, or population, of complementary sequences to the same tag (and no other). In the latter embodiment, the area of the regions may vary according to particular applications; usually, the regions range in area from several μm^2 , e.g. 3-5, to several hundred μm^2 , e.g. 100-500. Preferably, such regions are spatially discrete so that signals generated by events, e.g. fluorescent emissions, at adjacent regions can be resolved by the detection system being employed. In some applications, it may be desirable to have regions with uniform coatings of more than one tag complement, e.g. for simultaneous sequence analysis, or for bringing separately tagged molecules into close proximity.

Tag complements may be used with the solid phase support that they are synthesized on, or they may be separately synthesized and attached to a solid phase support for use, e.g. as disclosed by Lund et al, Nucleic Acids Research, 16: 10861-10880 (1988); Albretsen et al, Anal. Biochem., 189: 40-50 (1990); Wolf et al, Nucleic Acids Research, 15: 2911-2926 (1987); or Ghosh et al, Nucleic Acids Research, 15: 5353-5372 (1987). Preferably, tag complements are synthesized on and used with the same solid phase support, which may comprise a variety of forms and include a variety of linking moieties. Such supports may comprise microparticles or arrays, or matrices, of regions where uniform populations of tag complements are synthesized. A wide variety of microparticle supports may be used with the invention, including microparticles made of controlled pore glass (CPG), highly cross-linked polystyrene, acrylic copolymers, cellulose, nylon, dextran, latex, polyacrolein, and the like, disclosed in the following exemplary references: Meth. Enzymol., Section A, pages 11-147, vol. 44 (Academic Press, New York, 1976); U.S. patents 4,678,814; 4,413,070; and 4,046,720; and Pon, Chapter 19, in Agrawal, editor, Methods in Molecular Biology, Vol. 20, (Humana Press, Totowa, NJ, 1993). Microparticle supports further include commercially available nucleoside-derivatized CPG and polystyrene beads (e.g. available from Applied Biosystems, Foster City, CA); derivatized magnetic beads; polystyrene grafted with polyethylene glycol (e.g., TentaGelTM, Rapp Polymere, Tübingen Germany); and the like. Selection of the support characteristics, such as material, porosity, size, shape, and the like, and the type of linking moiety employed depends on the conditions under which the tags are used. For example, in applications involving successive processing with enzymes, supports and linkers that minimize steric hindrance of the enzymes and that facilitate

access to substrate are preferred. Other important factors to be considered in selecting the most appropriate microparticle support include size uniformity, efficiency as a synthesis support, degree to which surface area known, and optical properties, e.g. as explained more fully below, clear, smooth beads provide instrumental advantages

5 when handling large numbers of beads on a surface.

Exemplary linking moieties for attaching and/or synthesizing tags on microparticle surfaces are disclosed in Pon et al, *Biotechniques*, 6:768-775 (1988); Webb, U.S. patent 4,659,774; Barany et al, International patent application PCT/US91/06103; Brown et al, *J. Chem. Soc. Commun.*, 1989: 891-893; Damha et al, *Nucleic Acids Research*, 18: 3813-3821 (1990); Beattie et al, *Clinical Chemistry*, 39: 719-722 (1993); Maskos and Southern, *Nucleic Acids Research*, 20: 1679-1684 (1992); and the like.

10 As mentioned above, tag complements may also be synthesized on a single (or a few) solid phase support to form an array of regions uniformly coated with tag complements. That is, within each region in such an array the same tag complement is synthesized. Techniques for synthesizing such arrays are disclosed in McGall et al, International application PCT/US93/03767; Pease et al, *Proc. Natl. Acad. Sci.*, 91: 5022-5026 (1994); Southern and Maskos, International application PCT/GB89/01114; Maskos and Southern (cited above); Southern et al, *Genomics*, 13: 20 1008-1017 (1992); and Maskos and Southern, *Nucleic Acids Research*, 21: 4663-4669 (1993).

15 Preferably, the invention is implemented with microparticles or beads uniformly coated with complements of the same tag sequence. Microparticle supports and methods of covalently or noncovalently linking oligonucleotides to their surfaces are well known, as exemplified by the following references: Beaucage and Iyer (cited above); Gait, editor, *Oligonucleotide Synthesis: A Practical Approach* (IRL Press, Oxford, 1984); and the references cited above. Generally, the size and shape of a microparticle is not critical; however, microparticles in the size range of a few, e.g. 1-2, to several hundred, e.g. 200-1000 μm diameter are preferable, as they facilitate the 20 construction and manipulation of large repertoires of oligonucleotide tags with minimal reagent and sample usage.

25 In some preferred applications, commercially available controlled-pore glass (CPG) or polystyrene supports are employed as solid phase supports in the invention. Such supports come available with base-labile linkers and initial nucleosides attached. e.g. Applied Biosystems (Foster City, CA). Preferably, microparticles having pore size between 500 and 1000 angstroms are employed.

30 In other preferred applications, non-porous microparticles are employed for their optical properties, which may be advantageously used when tracking large

numbers of microparticles on planar supports, such as a microscope slide. Particularly preferred non-porous microparticles are the glycidal methacrylate (GMA) beads available from Bangs Laboratories (Carmel, IN). Such microparticles are useful in a variety of sizes and derivatized with a variety of linkage groups for synthesizing tags or tag complements. Preferably, for massively parallel manipulations of tagged microparticles, 5 μ m diameter GMA beads are employed.

10

Attaching Tags to Polynucleotides

For Sorting onto Solid Phase Supports

An important aspect of the invention is the sorting and attachment of a populations of polynucleotides, e.g. from a cDNA library, to microparticles or to 15 separate regions on a solid phase support such that each microparticle or region has substantially only one kind of polynucleotide attached. This objective is accomplished by insuring that substantially all different polynucleotides have different tags attached. This condition, in turn, is brought about by taking a sample of the full ensemble of tag-polynucleotide conjugates for analysis. (It is acceptable that 20 identical polynucleotides have different tags, as it merely results in the same polynucleotide being operated on or analyzed twice in two different locations.) Such sampling can be carried out either overtly--for example, by taking a small volume from a larger mixture--after the tags have been attached to the polynucleotides, it can be carried out inherently as a secondary effect of the techniques used to process the 25 polynucleotides and tags, or sampling can be carried out both overtly and as an inherent part of processing steps.

Preferably, in constructing a cDNA library where substantially all different cDNAs have different tags, a tag repertoire is employed whose complexity, or number of distinct tags, greatly exceeds the total number of mRNAs extracted from a cell or 30 tissue sample. Preferably, the complexity of the tag repertoire is at least 10 times that of the polynucleotide population; and more preferably, the complexity of the tag repertoire is at least 100 times that of the polynucleotide population. Below, a protocol is disclosed for cDNA library construction using a primer mixture that contains a full repertoire of exemplary 9-word tags. Such a mixture of tag-containing 35 primers has a complexity of 8^9 , or about 1.34×10^8 . As indicated by Winslow et al, Nucleic Acids Research, 19: 3251-3253 (1991), mRNA for library construction can be extracted from as few as 10-100 mammalian cells. Since a single mammalian cell contains about 5×10^5 copies of mRNA molecules of about 3.4×10^4 different kinds.

by standard techniques one can isolate the mRNA from about 100 cells, or (theoretically) about 5×10^7 mRNA molecules. Comparing this number to the complexity of the primer mixture shows that without any additional steps, and even assuming that mRNAs are converted into cDNAs with perfect efficiency (1% efficiency or less is more accurate), the cDNA library construction protocol results in a population containing no more than 37% of the total number of different tags. That is, without any overt sampling step at all, the protocol inherently generates a sample that comprises 37%, or less, of the tag repertoire. The probability of obtaining a double under these conditions is about 5%, which is within the preferred range. With mRNA from 10 cells, the fraction of the tag repertoire sampled is reduced to only 3.7%, even assuming that all the processing steps take place at 100% efficiency. In fact, the efficiencies of the processing steps for constructing cDNA libraries are very low, a "rule of thumb" being that good library should contain about 10^8 cDNA clones from mRNA extracted from 10^6 mammalian cells.

15 Use of larger amounts of mRNA in the above protocol, or for larger amounts of polynucleotides in general, where the number of such molecules exceeds the complexity of the tag repertoire, a tag-polynucleotide conjugate mixture potentially contains every possible pairing of tags and types of mRNA or polynucleotide. In such cases, overt sampling may be implemented by removing a sample volume after a

20 serial dilution of the starting mixture of tag-polynucleotide conjugates. The amount of dilution required depends on the amount of starting material and the efficiencies of the processing steps, which are readily estimated.

If mRNA were extracted from 10^6 cells (which would correspond to about 0.5 μ g of poly(A)⁺ RNA), and if primers were present in about 10-100 fold concentration excess--as is called for in a typical protocol, e.g. Sambrook et al, Molecular Cloning, Second Edition, page 8.61 [10 μ L 1.8 kb mRNA at 1 mg/mL equals about 1.68×10^{11} moles and 10 μ L 18-mer primer at 1 mg/mL equals about 1.68×10^{-9} moles], then the total number of tag-polynucleotide conjugates in a cDNA library would simply be equal to or less than the starting number of mRNAs, or about 5×10^{11} vectors

30 containing tag-polynucleotide conjugates--again this assumes that each step in cDNA construction--first strand synthesis, second strand synthesis, ligation into a vector--occurs with perfect efficiency, which is a very conservative estimate. The actual number is significantly less.

If a sample of n tag-polynucleotide conjugates are randomly drawn from a reaction mixture--as could be effected by taking a sample volume, the probability of drawing conjugates having the same tag is described by the Poisson distribution, $P(r) = e^{-\lambda} (\lambda)^r / r!$, where r is the number of conjugates having the same tag and $\lambda = np$, where p is the probability of a given tag being selected. If $n = 10^6$ and $p = 1/(1.34 \times$

10^8), then $\lambda = .00746$ and $P(2) = 2.76 \times 10^{-5}$. Thus, a sample of one million molecules gives rise to an expected number of doubles well within the preferred range. Such a sample is readily obtained as follows: Assume that the 5×10^{11} mRNAs are perfectly converted into 5×10^{11} vectors with tag-cDNA conjugates as inserts and that the 5×10^{11} vectors are in a reaction solution having a volume of 100 μ l. Four 10-fold serial dilutions may be carried out by transferring 10 μ l from the original solution into a vessel containing 90 μ l of an appropriate buffer, such as TE. This process may be repeated for three additional dilutions to obtain a 100 μ l solution containing 5×10^5 vector molecules per μ l. A 2 μ l aliquot from this solution yields 10^6 vectors containing tag-cDNA conjugates as inserts. This sample is then amplified by straight forward transformation of a competent host cell followed by culturing.

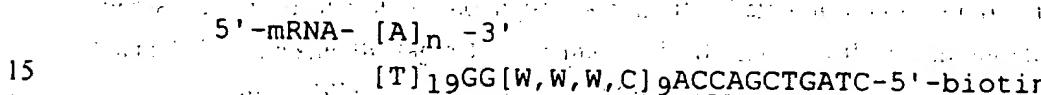
Of course, as mentioned above, no step in the above process proceeds with perfect efficiency. In particular, when vectors are employed to amplify a sample of tag-polynucleotide conjugates, the step of transforming a host is very inefficient. Usually, no more than 1% of the vectors are taken up by the host and replicated. Thus, for such a method of amplification, even fewer dilutions would be required to obtain a sample of 10^6 conjugates.

A repertoire of oligonucleotide tags can be conjugated to a population of polynucleotides in a number of ways, including direct enzymatic ligation, amplification, e.g. via PCR, using primers containing the tag sequences, and the like. The initial ligating step produces a very large population of tag-polynucleotide conjugates such that a single tag is generally attached to many different polynucleotides. However, as noted above, by taking a sufficiently small sample of the conjugates, the probability of obtaining "doubles," i.e. the same tag on two different polynucleotides, can be made negligible. Generally, the larger the sample the greater the probability of obtaining a double. Thus, a design trade-off exists between selecting a large sample of tag-polynucleotide conjugates--which, for example, ensures adequate coverage of a target polynucleotide in a shotgun sequencing operation or adequate representation of a rapidly changing mRNA pool, and selecting a small sample which ensures that a minimal number of doubles will be present. In most embodiments, the presence of doubles merely adds an additional source of noise or, in the case of sequencing, a minor complication in scanning and signal processing, as microparticles giving multiple fluorescent signals can simply be ignored.

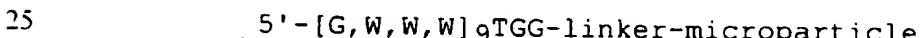
As used herein, the term "substantially all" in reference to attaching tags to molecules, especially polynucleotides, is meant to reflect the statistical nature of the sampling procedure employed to obtain a population of tag-molecule conjugates essentially free of doubles. The meaning of substantially all in terms of actual

percentages of tag-molecule conjugates depends on how the tags are being employed. Preferably, for nucleic acid sequencing, substantially all means that at least eighty percent of the polynucleotides have unique tags attached. More preferably, it means that at least ninety percent of the polynucleotides have unique tags attached. Still 5 more preferably, it means that at least ninety-five percent of the polynucleotides have unique tags attached. And, most preferably, it means that at least ninety-nine percent of the polynucleotides have unique tags attached.

Preferably, when the population of polynucleotides consists of messenger RNA (mRNA), oligonucleotides tags may be attached by reverse transcribing the 10 mRNA with a set of primers preferably containing complements of tag sequences. An exemplary set of such primers could have the following sequence (SEQ ID NO: 1):



where "[W,W,W,C]9" represents the sequence of an oligonucleotide tag of nine 15 subunits of four nucleotides each and "[W,W,W,C]" represents the subunit sequences listed above, i.e. "W" represents T or A. The underlined sequences identify an 20 optional restriction endonuclease site that can be used to release the polynucleotide from attachment to a solid phase support via the biotin, if one is employed. For the above primer, the complement attached to a microparticle could have the form:



After reverse transcription, the mRNA is removed, e.g. by RNase H digestion, and the second strand of the cDNA is synthesized using, for example, a primer of the following form (SEQ ID NO: 2):

30



where N is any one of A, T, G, or C; R is a purine-containing nucleotide, and Y is a 35 pyrimidine-containing nucleotide. This particular primer creates a Bst Y1 restriction site in the resulting double stranded DNA which, together with the Sal I site, facilitates cloning into a vector with, for example, Bam HI and Xho I sites. After Bst Y1 and Sal I digestion, the exemplary conjugate would have the form:

5'-RCGACCA[C,W,W,W]9GG[T]19- cDNA -NNNR
GGT[G,W,W,W]9CC[A]19- rDNA -NNNYCTAG-5'

5 The polynucleotide-tag conjugates may then be manipulated using standard molecular
biology techniques. For example, the above conjugate--which is actually a mixture--
may be inserted into commercially available cloning vectors, e.g. Stratagene Cloning
System (La Jolla, CA); transfected into a host, such as a commercially available host
bacteria; which is then cultured to increase the number of conjugates. The cloning
vectors may then be isolated using standard techniques, e.g. Sambrook et al,
10 Molecular Cloning, Second Edition (Cold Spring Harbor Laboratory, New York,
1989). Alternatively, appropriate adaptors and primers may be employed so that the
conjugate population can be increased by PCR.

15 Preferably, when the ligase-based method of sequencing is employed, the Bst
Y1 and Sal I digested fragments are cloned into a Bam HI/Xho I-digested vector
having the following single-copy restriction sites (SEQ ID NO: 3):

5'-GAGGATGCCTTATGGATCCACTCGAGATCCAAATCCA-3'
FokI BamHI XhoI

20 This adds the Fok I site which will allow initiation of the sequencing process
discussed more fully below.

25 Tags can be conjugated to cDNAs of existing libraries by standard cloning
methods. cDNAs are excised from their existing vector, isolated, and then ligated into
a vector containing a repertoire of tags. Preferably, the tag-containing vector is
linearized by cleaving with two restriction enzymes so that the excised cDNAs can be
ligated in a predetermined orientation. The concentration of the linearized tag-
containing vector is in substantial excess over that of the cDNA inserts so that
ligation provides an inherent sampling of tags.

30 A general method for exposing the single stranded tag after amplification
involves digesting a target polynucleotide-containing conjugate with the 5'→3'
exonuclease activity of T4 DNA polymerase, or a like enzyme. When used in the
presence of a single deoxynucleoside triphosphate, such a polymerase will cleave
nucleotides from 3' recessed ends present on the non-template strand of a double
35 stranded fragment until a complement of the single deoxynucleoside triphosphate is
reached on the template strand. When such a nucleotide is reached the 5'→3'
digestion effectively ceases, as the polymerase's extension activity adds nucleotides at
a higher rate than the excision activity removes nucleotides. Consequently, single

stranded tags constructed with three nucleotides are readily prepared for loading onto solid phase supports.

The technique may also be used to preferentially methylate interior Fok I sites of a target polynucleotide while leaving a single Fok I site at the terminus of the 5 polynucleotide unmethylated. First, the terminal Fok I site is rendered single stranded using a polymerase with deoxycytidine triphosphate. The double stranded portion of the fragment is then methylated, after which the single stranded terminus is filled in with a DNA polymerase in the presence of all four nucleoside triphosphates, thereby regenerating the Fok I site. Clearly, this procedure can be generalized to 10 endonucleases other than Fok I.

After the oligonucleotide tags are prepared for specific hybridization, e.g. by rendering them single stranded as described above, the polynucleotides are mixed with microparticles containing the complementary sequences of the tags under 15 conditions that favor the formation of perfectly matched duplexes between the tags and their complements. There is extensive guidance in the literature for creating these conditions. Exemplary references providing such guidance include Wetmur, Critical Reviews in Biochemistry and Molecular Biology, 26: 227-259 (1991); Sambrook et al, Molecular Cloning: A Laboratory Manual, 2nd Edition (Cold Spring Harbor Laboratory, New York, 1989); and the like. Preferably, the hybridization conditions 20 are sufficiently stringent so that only perfectly matched sequences form stable duplexes. Under such conditions the polynucleotides specifically hybridized through their tags may be ligated to the complementary sequences attached to the microparticles. Finally, the microparticles are washed to remove polynucleotides with unligated and/or mismatched tags.

25 When CPG microparticles conventionally employed as synthesis supports are used, the density of tag complements on the microparticle surface is typically greater than that necessary for some sequencing operations. That is, in sequencing approaches that require successive treatment of the attached polynucleotides with a variety of enzymes, densely spaced polynucleotides may tend to inhibit access of the 30 relatively bulky enzymes to the polynucleotides. In such cases, the polynucleotides are preferably mixed with the microparticles so that tag complements are present in significant excess, e.g. from 10:1 to 100:1, or greater, over the polynucleotides. This ensures that the density of polynucleotides on the microparticle surface will not be so high as to inhibit enzyme access. Preferably, the average inter-polynucleotide spacing 35 on the microparticle surface is on the order of 30-100 nm. Guidance in selecting ratios for standard CPG supports and Ballotini beads (a type of solid glass support) is found in Maskos and Southern, Nucleic Acids Research, 20: 1679-1684 (1992). Preferably, for sequencing applications, standard CPG beads of diameter in the range

of 20-50 μm are loaded with about 10^5 polynucleotides, and GMA beads of diameter in the range of 5-10 μm are loaded with a few tens of thousand of polynucleotides, e.g. 4×10^4 to 6×10^4 .

In the preferred embodiment, tag complements are synthesized on

5 microparticles combinatorially; thus, at the end of the synthesis, one obtains a complex mixture of microparticles from which a sample is taken for loading tagged polynucleotides. The size of the sample of microparticles will depend on several factors, including the size of the repertoire of tag complements, the nature of the apparatus for used for observing loaded microparticles—e.g. its capacity, the tolerance

10 for multiple copies of microparticles with the same tag complement (i.e. "bead doubles"), and the like. The following table provide guidance regarding microparticle sample size, microparticle diameter, and the approximate physical dimensions of a packed array of microparticles of various diameters.

15

Microparticle diameter	5 μm	10 μm	20 μm	40 μm
Max. no. polynucleotides loaded at 1 per 10^5 sq. angstrom		3×10^5	1.26×10^6	5×10^6
Approx. area of monolayer of 10^6 microparticles	.45 x .45 cm	1 x 1 cm	2 x 2 cm	4 x 4 cm

20 The probability that the sample of microparticles contains a given tag complement or is present in multiple copies is described by the Poisson distribution, as indicated in the following table.

25

Table VII

Number of microparticles in sample (as fraction of repertoire size), m	Fraction of repertoire of tag complements present in sample, $1-e^{-m}$	Fraction of microparticles in sample carrying same tag	
		sample with unique tag complement attached, $m(e^{-m})/2$	other microparticle in sample ("bead doubles"), $m^2(e^{-m})/2$
1.000	0.63	0.37	0.18
.693	0.50	0.35	0.12
.405	0.33	0.27	0.05
.285	0.25	0.21	0.03
.223	0.20	0.18	0.02
.105	0.10	0.09	0.005
.010	0.01	0.01	0.0005

High Specificity Sorting and Panning

5 The kinetics of sorting depends on the rate of hybridization of oligonucleotide tags to their tag complements which, in turn, depends on the complexity of the tags in the hybridization reaction. Thus, a trade off exists between sorting rate and tag complexity, such that an increase in sorting rate may be achieved at the cost of reducing the complexity of the tags involved in the hybridization reaction. As 10 explained below, the effects of this trade off may be ameliorated by "panning."

Specificity of the hybridizations may be increased by taking a sufficiently small sample so that both a high percentage of tags in the sample are unique and the nearest neighbors of substantially all the tags in a sample differ by at least two words. This latter condition may be met by taking a sample that contains a number of tag-15 polynucleotide conjugates that is about 0.1 percent or less of the size of the repertoire being employed. For example, if tags are constructed with eight words selected from Table II, a repertoire of 8^8 , or about 1.67×10^7 , tags and tag complements are produced. In a library of tag-cDNA conjugates as described above, a 0.1 percent sample means that about 16,700 different tags are present. If this were loaded directly 20 onto a repertoire-equivalent of microparticles, or in this example a sample of 1.67×10^7 microparticles, then only a sparse subset of the sampled microparticles would be loaded. The density of loaded microparticles can be increased--for example, for more efficient sequencing--by undertaking a "panning" step in which the sampled tag-cDNA conjugates are used to separate loaded microparticles from unloaded 25 microparticles. Thus, in the example above, even though a "0.1 percent" sample

contains only 16,700 cDNAs, the sampling and panning steps may be repeated until as many loaded microparticles as desired are accumulated.

A panning step may be implemented by providing a sample of tag-cDNA conjugates each of which contains a capture moiety at an end opposite, or distal to, 5 the oligonucleotide tag. Preferably, the capture moiety is of a type which can be released from the tag-cDNA conjugates, so that the tag-cDNA conjugates can be sequenced with a single-base sequencing method. Such moieties may comprise biotin, digoxigenin, or like ligands, a triplex binding region, or the like. Preferably, 10 such a capture moiety comprises a biotin component. Biotin may be attached to tag-cDNA conjugates by a number of standard techniques. If appropriate adapters containing PCR primer binding sites are attached to tag-cDNA conjugates, biotin may be attached by using a biotinylated primer in an amplification after sampling. Alternatively, if the tag-cDNA conjugates are inserts of cloning vectors, biotin may be 15 attached after excising the tag-cDNA conjugates by digestion with an appropriate restriction enzyme followed by isolation and filling in a protruding strand distal to the tags with a DNA polymerase in the presence of biotinylated uridine triphosphate.

After a tag-cDNA conjugate is captured, it may be released from the biotin moiety in a number of ways, such as by a chemical linkage that is cleaved by reduction, e.g. Herman et al, Anal. Biochem., 156: 48-55 (1986), or that is cleaved 20 photochemically, e.g. Olejnik et al, Nucleic Acids Research, 24: 361-366 (1996), or that is cleaved enzymatically by introducing a restriction site in the PCR primer. The latter embodiment can be exemplified by considering the library of tag-polynucleotide conjugates described above:

25 5'-RCGACCA[C,W,W,W]9GG[T]19- cDNA -NNNR
GGT[G,W,W,W]9CC[A]19- rDNA -NNNYCTAG-5'

The following adapters may be ligated to the ends of these fragments to permit 30 amplification by PCR:

5' - XXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXYGAT

35 Right Adapter

40 GATCZZACTAGTZZZZZZZZZZ-3'
ZZTGATCAZZZZZZZZZZ

Left Adapter5 **Z2TGATCAZ2ZZZZZZZZZ-5'-biotin****Left Primer**

where "ACTAGT" is a Spe I recognition site (which leaves a staggered cleavage ready for single base sequencing), and the X's and Z's are nucleotides selected so that the annealing and dissociation temperatures of the respective primers are approximately the same. After ligation of the adapters and amplification by PCR using the biotinylated primer, the tags of the conjugates are rendered single stranded by the exonuclease activity of T4 DNA polymerase and conjugates are combined with a sample of microparticles, e.g. a repertoire equivalent, with tag complements attached. After annealing under stringent conditions (to minimize mis-attachment of tags), the conjugates are preferably ligated to their tag complements and the loaded microparticles are separated from the unloaded microparticles by capture with avidinated magnetic beads, or like capture technique.

10 Returning to the example, this process results in the accumulation of about 15,500 (=16,700 x .63) loaded microparticles with different tags, which may be released from the magnetic beads by cleavage with Spe I. By repeating this process 40-50 times with new samples of microparticles and tag-cDNA conjugates, $4-5 \times 10^5$ cDNAs can be accumulated by pooling the released microparticles. The pooled microparticles may then be simultaneously sequenced by a single-base sequencing technique.

20 Determining how many times to repeat the sampling and panning steps--or more generally, determining how many cDNAs to analyze, depends on one's objective. If the objective is to monitor the changes in abundance of relatively common sequences, e.g. making up 5% or more of a population, then relatively small samples, i.e. a small fraction of the total population size, may allow statistically significant estimates of relative abundances. On the other hand, if one seeks to monitor the abundances of rare sequences, e.g. making up 0.1% or less of a population, then large samples are required. Generally, there is a direct relationship between sample size and the reliability of the estimates of relative abundances based on the sample. There is extensive guidance in the literature on determining appropriate sample sizes for making reliable statistical estimates, e.g. Koller et al, Nucleic Acids Research, 23:185-191 (1994); Good, Biometrika, 40: 16-264 (1953); Bunge et al, J. Am. Stat. Assoc., 88: 364-373 (1993); and the like. Preferably, for

monitoring changes in gene expression based on the analysis of a series of cDNA libraries containing 10^5 to 10^8 independent clones of $3.0\text{--}3.5 \times 10^4$ different sequences, a sample of at least 10^4 sequences are accumulated for analysis of each library. More preferably, a sample of at least 10^5 sequences are accumulated for the analysis of each library; and most preferably, a sample of at least 5×10^5 sequences are accumulated for the analysis of each library. Alternatively, the number of sequences sampled is preferably sufficient to estimate the relative abundance of a sequence present at a frequency within the range of 0.1% to 5% with a 95% confidence limit no larger than 0.1% of the population size.

10 according to the present invention, the following methodology is employed:

Single Base DNA Sequencing

The present invention can be employed with conventional methods of DNA sequencing, e.g. as disclosed by Hultman et al, Nucleic Acids Research, 17: 4937-4946 (1989). However, for parallel, or simultaneous, sequencing of multiple 15 polynucleotides, a DNA sequencing methodology is preferred that requires neither electrophoretic separation of closely sized DNA fragments nor analysis of cleaved nucleotides by a separate analytical procedure, as in peptide sequencing. Preferably, the methodology permits the stepwise identification of nucleotides, usually one at a time, in a sequence through successive cycles of treatment and detection. Such 20 methodologies are referred to herein as "single base" sequencing methods. Single base approaches are disclosed in the following references: Cheeseman, U.S. patent 5,302,509; Tsien et al, International application WO 91/06678; Rosenthal et al, International application WO 93/21340; Canard et al, Gene, 148: 1-6 (1994); and Metzker et al, Nucleic Acids Research, 22: 4259-4267 (1994).

25 A "single base" method of DNA sequencing which is suitable for use with the present invention and which requires no electrophoretic separation of DNA fragments is described in International application PCT/US95/03678. Briefly, the method comprises the following steps: (a) ligating a probe to an end of the polynucleotide having a protruding strand to form a ligated complex, the probe having a

30 complementary protruding strand to that of the polynucleotide and the probe having a nuclease recognition site; (b) removing unligated probe from the ligated complex; (c) identifying one or more nucleotides in the protruding strand of the polynucleotide by the identity of the ligated probe; (d) cleaving the ligated complex with a nuclease; and (e) repeating steps (a) through (d) until the nucleotide sequence of the polynucleotide. 35 or a portion thereof, is determined.

A single signal generating moiety, such as a single fluorescent dye, may be employed when sequencing several different target polynucleotides attached to different spatially addressable solid phase supports, such as fixed microparticles, in a

parallel sequencing operation. This may be accomplished by providing four sets of probes that are applied sequentially to the plurality of target polynucleotides on the different microparticles. An exemplary set of such probes are shown below:

5

Set 1	Set 2	Set 3	Set 4
ANNNN...NN N...NNTT...T*	dANNNN...NN d N...NNTT...T	dANNNN...NN N...NNTT...T	dANNNN...NN N...NNTT...T
dCNNNN...NN N...NNTT...T	CNNNN...NN N...NNTT...T*	dCNNNN...NN N...NNTT...T	dCNNNN...NN N...NNTT...T
dGNNNN...NN N...NNTT...T	dGNNNN...NN N...NNTT...T	GNNNN...NN N...NNTT...T	dGNNNN...NN N...NNTT...T
dTNNNN...NN N...NNTT...T	dTNNNN...NN N...NNTT...T	dTNNNN...NN N...NNTT...T	TNNNN...NN N...NNTT...T*

where each of the listed probes represents a mixture of $4^3=64$ oligonucleotides such that the identity of the 3' terminal nucleotide of the top strand is fixed and the other positions in the protruding strand are filled by every 3-mer permutation of nucleotides. 10 or complexity reducing analogs. The listed probes are also shown with a single stranded poly-T tail with a signal generating moiety attached to the terminal thymidine, shown as "T*". The "d" on the unlabeled probes designates a ligation-blocking moiety or absence of 3'-hydroxyl, which prevents unlabeled probes from being ligated. Preferably, such 3'-terminal nucleotides are dideoxynucleotides. In this embodiment, 15 the probes of set 1 are first applied to the plurality of target polynucleotides and treated with a ligase so that target polynucleotides having a thymidine complementary to the 3' terminal adenine of the labeled probes are ligated. The unlabeled probes are simultaneously applied to minimize inappropriate ligations. The locations of the target polynucleotides that form ligated complexes with probes terminating in "A" are 20 identified by the signal generated by the label carried on the probe. After washing and cleavage, the probes of set 2 are applied. In this case, target polynucleotides forming ligated complexes with probes terminating in "C" are identified by location. Similarly, the probes of sets 3 and 4 are applied and locations of positive signals identified. This process of sequentially applying the four sets of probes continues until the desired 25 number of nucleotides are identified on the target polynucleotides. Clearly, one of ordinary skill could construct similar sets of probes that could have many variations, such as having protruding strands of different lengths, different moieties to block ligation of unlabeled probes, different means for labeling probes, and the like.

Apparatus for Sequencing Populations of Polynucleotides

An objective of the invention is to sort identical molecules, particularly polynucleotides, onto the surfaces of microparticles by the specific hybridization of tags and their complements. Once such sorting has taken place, the presence of the molecules or operations performed on them can be detected in a number of ways depending on the nature of the tagged molecule, whether microparticles are detected separately or in "batches," whether repeated measurements are desired, and the like. Typically, the sorted molecules are exposed to ligands for binding, e.g. in drug development, or are subjected chemical or enzymatic processes, e.g. in polynucleotide sequencing. In both of these uses it is often desirable to simultaneously observe signals corresponding to such events or processes on large numbers of microparticles. Microparticles carrying sorted molecules (referred to herein as "loaded" microparticles) lend themselves to such large scale parallel operations, e.g. as demonstrated by Lam et al (cited above).

Preferably, whenever light-generating signals, e.g. chemiluminescent, fluorescent, or the like, are employed to detect events or processes, loaded microparticles are spread on a planar substrate, e.g. a glass slide, for examination with a scanning system, such as described in International patent applications - PCT/US91/09217, PCT/NL90/00081, and PCT/US95/01886. The scanning system should be able to reproducibly scan the substrate and to define the positions of each microparticle in a predetermined region by way of a coordinate system. In polynucleotide sequencing applications, it is important that the positional identification of microparticles be repeatable in successive scan steps.

Such scanning systems may be constructed from commercially available components, e.g. x-y translation table controlled by a digital computer used with a detection system comprising one or more photomultiplier tubes, or alternatively, a CCD array, and appropriate optics, e.g. for exciting, collecting, and sorting fluorescent signals. In some embodiments a confocal optical system may be desirable. An exemplary scanning system suitable for use in four-color sequencing is illustrated diagrammatically in Figure 5. Substrate 300, e.g. a microscope slide with fixed microparticles, is placed on x-y translation table 302, which is connected to and controlled by an appropriately programmed digital computer 304 which may be any of a variety of commercially available personal computers, e.g. 486-based machines or PowerPC model 7100 or 8100 available from Apple Computer (Cupertino, CA). Computer software for table translation and data collection functions can be provided by commercially available laboratory software, such as Lab Windows, available from National Instruments.

Substrate 300 and table 302 are operationally associated with microscope 306 having one or more objective lenses 308 which are capable of collecting and delivering light to microparticles fixed to substrate 300. Excitation beam 310 from light source 312, which is preferably a laser, is directed to beam splitter 314, e.g. a dichroic mirror, which re-directs the beam through microscope 306 and objective lens 308 which, in turn, focuses the beam onto substrate 300. Lens 308 collects fluorescence 316 emitted from the microparticles and directs it through beam splitter 314 to signal distribution optics 318 which, in turn, directs fluorescence to one or more suitable opto-electronic devices for converting some fluorescence characteristic, e.g. intensity, lifetime, or the like, to an electrical signal. Signal distribution optics 318 may comprise a variety of components standard in the art, such as bandpass filters, fiber optics, rotating mirrors, fixed position mirrors and lenses, diffraction gratings, and the like. As illustrated in Figure 2, signal distribution optics 318 directs fluorescence 316 to four separate photomultiplier tubes, 330, 332, 334, and 336, whose output is then directed to pre-amps and photon counters 350, 352, 354, and 356. The output of the photon counters is collected by computer 304, where it can be stored, analyzed, and viewed on video 360. Alternatively, signal distribution optics 318 could be a diffraction grating which directs fluorescent signal 318 onto a CCD array.

The stability and reproducibility of the positional localization in scanning will determine, to a large extent, the resolution for separating closely spaced microparticles. Preferably, the scanning systems should be capable of resolving closely spaced microparticles, e.g. separated by a particle diameter or less. Thus, for most applications, e.g. using CPG microparticles, the scanning system should at least have the capability of resolving objects on the order of 10-100 μm . Even higher resolution may be desirable in some embodiments, but with increase resolution, the time required to fully scan a substrate will increase; thus, in some embodiments a compromise may have to be made between speed and resolution. Increases in scanning time can be achieved by a system which only scans positions where microparticles are known to be located, e.g. from an initial full scan. Preferably, microparticle size and scanning system resolution are selected to permit resolution of fluorescently labeled microparticles randomly disposed on a plane at a density between about ten thousand to one hundred thousand microparticles per cm^2 .

In sequencing applications, loaded microparticles can be fixed to the surface of a substrate in variety of ways. The fixation should be strong enough to allow the microparticles to undergo successive cycles of reagent exposure and washing without significant loss. When the substrate is glass, its surface may be derivatized with an alkylamino linker using commercially available reagents, e.g. Pierce Chemical, which

in turn may be cross-linked to avidin, again using conventional chemistries, to form an avidinated surface. Biotin moieties can be introduced to the loaded microparticles in a number of ways. For example, a fraction, e.g. 10-15 percent, of the cloning vectors used to attach tags to polynucleotides are engineered to contain a unique 5 restriction site (providing sticky ends on digestion) immediately adjacent to the polynucleotide insert at an end of the polynucleotide opposite of the tag. The site is excised with the polynucleotide and tag for loading onto microparticles. After loading, about 10-15 percent of the loaded polynucleotides will possess the unique 10 restriction site distal from the microparticle surface. After digestion with the associated restriction endonuclease, an appropriate double stranded adaptor 15 containing a biotin moiety is ligated to the sticky end. The resulting microparticles are then spread on the avidinated glass surface where they become fixed via the biotin-avidin linkages.

Alternatively and preferably when sequencing by ligation is employed, in the 15 initial ligation step a mixture of probes is applied to the loaded microparticle: a fraction of the probes contain a type IIs restriction recognition site, as required by the sequencing method, and a fraction of the probes have no such recognition site, but instead contain a biotin moiety at its non-ligating end. Preferably, the mixture 20 comprises about 10-15 percent of the biotinylated probe.

In still another alternative, when DNA-loaded microparticles are applied to a 25 glass substrate, the DNA may nonspecifically adsorb to the glass surface upon several hours, e.g. 24 hours, incubation to create a bond sufficiently strong to permit repeated exposures to reagents and washes without significant loss of microparticles. Preferably, such a glass substrate is a flow cell, which may comprise a channel etched 30 in a glass slide. Preferably, such a channel is closed so that fluids may be pumped through it and has a depth sufficiently close to the diameter of the microparticles so that a monolayer of microparticles is trapped within a defined observation region.

Identification of Novel Polynucleotides
30 in cDNA Libraries

Novel polynucleotides in a cDNA library can be identified by constructing a 35 library of cDNA molecules attached to microparticles, as described above. A large fraction of the library, or even the entire library, can then be partially sequenced in parallel. After isolation of mRNA, and perhaps normalization of the population as taught by Soares et al, Proc. Natl. Acad. Sci., 91: 9228-9232 (1994), or like references, the following primer may be hybridized to the polyA tails for first strand synthesis with a reverse transcriptase using conventional protocols (SEQ ID NO: 1):

5' -mRNA- [A]_n -3'

[T]19-[primer site]-GG[W,W,W,C]9ACCAGCTGATC-5'

where [W,W,W,C]9 represents a tag as described above, "ACCAGCTGATC" is an optional sequence forming a restriction site in double stranded form, and "primer site" is a sequence common to all members of the library that is later used as a primer binding site for amplifying polynucleotides of interest by PCR.

After reverse transcription and second strand synthesis by conventional techniques, the double stranded fragments are inserted into a cloning vector as described above and amplified. The amplified library is then sampled and the sample amplified. The cloning vectors from the amplified sample are isolated, and the tagged cDNA fragments excised and purified. After rendering the tag single stranded with a polymerase as described above, the fragments are methylated and sorted onto microparticles in accordance with the invention. Preferably, as described above, the cloning vector is constructed so that the tagged cDNAs can be excised with an endonuclease, such as Fok I, that will allow immediate sequencing by the preferred single base method after sorting and ligation to microparticles.

Stepwise sequencing is then carried out simultaneously on the whole library, or one or more large fractions of the library, in accordance with the invention until a sufficient number of nucleotides are identified on each cDNA for unique representation in the genome of the organism from which the library is derived. For example, if the library is derived from mammalian mRNA then a randomly selected sequence 14-15 nucleotides long is expected to have unique representation among the 2-3 thousand megabases of the typical mammalian genome. Of course identification of far fewer nucleotides would be sufficient for unique representation in a library derived from bacteria, or other lower organisms. Preferably, at least 20-30 nucleotides are identified to ensure unique representation and to permit construction of a suitable primer as described below. The tabulated sequences may then be compared to known sequences to identify unique cDNAs.

Unique cDNAs are then isolated by conventional techniques, e.g. constructing a probe from the PCR amplicon produced with primers directed to the prime site and the portion of the cDNA whose sequence was determined. The probe may then be used to identify the cDNA in a library using a conventional screening protocol.

The above method for identifying new cDNAs may also be used to fingerprint mRNA populations, either in isolated measurements or in the context of a dynamically changing population. Partial sequence information is obtained simultaneously from a large sample, e.g. ten to a hundred thousand, or more, of cDNAs attached to separate microparticles as described in the above method.

Example 1**Construction of a Tag Library**

5 An exemplary tag library is constructed as follows to form the chemically synthesized 9-word tags of nucleotides A, G, and T defined by the formula:



10 where "[$^4(\text{A,G,T})_9$]" indicates a tag mixture where each tag consists of nine 4-mer words of A, G, and T; and "p" indicate a 5' phosphate. This mixture is ligated to the following right and left primer binding regions (SEQ ID NO: 4 and SEQ ID NO 5):

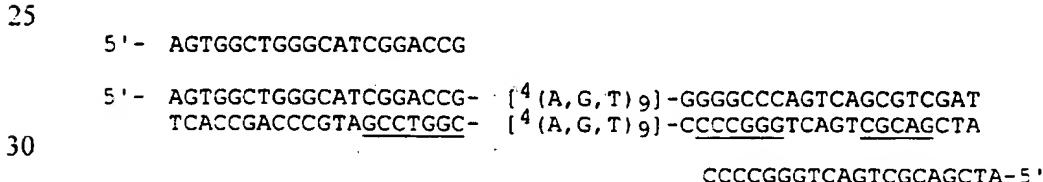


15

LEFT

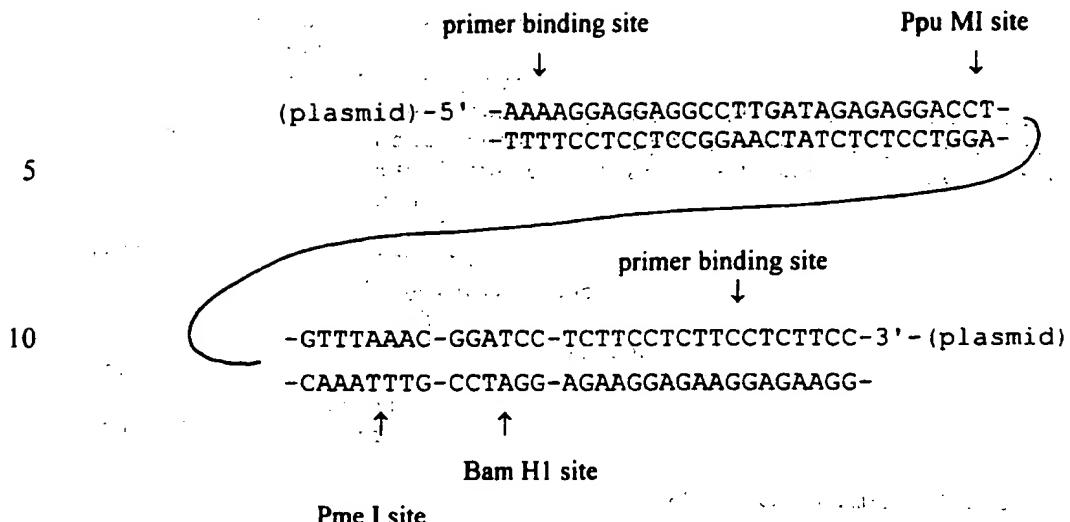
RIGHT

The right and left primer binding regions are ligated to the above tag mixture, after which the single stranded portion of the ligated structure is filled with DNA 20 polymerase then mixed with the right and left primers indicated below and amplified to give a tag library (SEQ ID NO: 6).

Left Primer**Right Primer**

35 The underlined portion of the left primer binding region indicates a Rsr II recognition site. The left-most underlined region of the right primer binding region indicates recognition sites for Bsp 120I, Apa I, and Eco O 109I, and a cleavage site for Hga I. The right-most underlined region of the right primer binding region indicates the recognition site for Hga I. Optionally, the right or left primers may be synthesized 40 with a biotin attached (using conventional reagents, e.g. available from Clontech Laboratories, Palo Alto, CA) to facilitate purification after amplification and/or cleavage.

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The plasmid is cleaved with Ppu MI and Pme I (to give a Rsr II-compatible end and a flush end so that the insert is oriented) and then methylated with DAM methylase. The tag-containing construct is cleaved with Rsr II and then ligated to the open plasmid, after which the conjugate is cleaved with Mbo I and Bam HI to permit ligation and closing of the plasmid. The plasmid is then amplified and isolated and used in accordance with the invention.

Example 3

Changes in Gene Expression Profiles in Liver Tissue of Rats

Exposed to Various Xenobiotic Agents

In this experiment, to test the capability of the method of the invention to detect genes induced as a result of exposure to xenobiotic compounds, the gene expression profile of rat liver tissue is examined following administration of several compounds known to induce the expression of cytochrome P-450 isoenzymes. The results obtained from the method of the invention are compared to results obtained from reverse transcriptase PCR measurements and immunochemical measurements of the cytochrome P-450 isoenzymes. Protocols and materials for the latter assays are described in Morris et al, Biochemical Pharmacology, 52: 781-792 (1996).

35 Male Sprague-Dawley rats between the ages of 6 and 8 weeks and weighing
200-300 g are used, and food and water are available to the animals *ad lib.* Test
compounds are phenobarbital (PB), metyrapone (MET), dexamethasone (DEX),
clofibrate (CLO), corn oil (CO), and β -naphthoflavone (BNF), and are available from
Sigma Chemical Co. (St. Louis, MO). Antibodies against specific P-450 enzymes are
available from the following sources: rabbit anti-rat CYP3A1 from Human Biologics,
40 Inc. (Phoenix, AZ); goat anti-rat CYP4A1 from Daiichi Pure Chemicals Co. (Tokyo).

Japan); monoclonal mouse anti-rat CYP1A1, monoclonal mouse anti-rat CYP2C11, goat anti-rat CYP2E1, and monoclonal mouse anti-rat CYP2B1 from Oxford Biochemical Research, Inc. (Oxford, MI). Secondary antibodies (goat anti-rabbit IgG, rabbit anti-goat IgG and goat anti-mouse IgG) are available from Jackson ImmunoResearch Laboratories (West Grove, PA).

5 Animals are administered either PB (100 mg/kg), BNF (100 mg/kg), MET (100 mg/kg), DEX (100 mg/kg), or CLO (250 mg/kg) for 4 consecutive days via intraperitoneal injection following a dosing regimen similar to that described by Wang et al, Arch. Biochem. Biophys. 290: 355-361 (1991). Animals treated with 10 H₂O and CO are used as controls. Two hours following the last injection (day 4), animals are killed, and the livers are removed. Livers are immediately frozen and stored at -70°C.

15 Total RNA is prepared from frozen liver tissue using a modification of the method described by Xie et al, Biotechniques, 11: 326-327 (1991). Approximately 100-200 mg of liver tissue is homogenized in the RNA extraction buffer described by Xie et al to isolate total RNA. The resulting RNA is reconstituted in diethylpyrocarbonate-treated water, quantified spectrophotometrically at 260 nm, and adjusted to a concentration of 100 µg/ml. Total RNA is stored in - diethylpyrocarbonate-treated water for up to 1 year at -70°C without any apparent 20 degradation. RT-PCR and sequencing are performed on samples from these preparations.

25 For sequencing, samples of RNA corresponding to about 0.5 µg of poly(A)⁺ RNA are used to construct libraries of tag-cDNA conjugates following the protocol described in the section entitled "Attaching Tags to Polynucleotides for Sorting onto Solid Phase Supports," with the following exception: the tag repertoire is constructed from six 4-nucleotide words from Table II. Thus, the complexity of the repertoire is 8⁶ or about 2.6 x 10⁵. For each tag-cDNA conjugate library constructed, ten samples of about ten thousand clones are taken for amplification and sorting. Each of the amplified samples is separately applied to a fixed monolayer of about 10⁶ 10 µm 30 diameter GMA beads containing tag complements. That is, the "sample" of tag complements in the GMA bead population on each monolayer is about four fold the total size of the repertoire, thus ensuring there is a high probability that each of the sampled tag-cDNA conjugates will find its tag complement on the monolayer. After the oligonucleotide tags of the amplified samples are rendered single stranded as 35 described above, the tag-cDNA conjugates of the samples are separately applied to the monolayers under conditions that permit specific hybridization only between oligonucleotide tags and tag complements forming perfectly matched duplexes. Concentrations of the amplified samples and hybridization times are selected to

permit the loading of about 5×10^4 to 2×10^5 tag-cDNA conjugates on each bead where perfect matches occur. After ligation, 9-12 nucleotide portions of the attached cDNAs are determined in parallel by the single base sequencing technique described by Brenner in International patent application PCT/US95/03678. Frequency 5 distributions for the gene expression profiles are assembled from the sequence information obtained from each of the ten samples.

RT-PCRs of selected mRNAs corresponding to cytochrome P-450 genes and the constitutively expressed cyclophilin gene are carried out as described in Morris et al (cited above). Briefly, a 20 μ L reaction mixture is prepared containing 1x reverse 10 transcriptase buffer (Gibco BRL), 10 nM dithiothreitol, 0.5 nM dNTPs, 2.5 μ M oligo d(T)₁₅ primer, 40 units RNasin (Promega, Madison, WI), 200 units RNase H-reverse transcriptase (Gibco BRL), and 400 ng of total RNA (in diethylpyrocarbonate-treated water). The reaction is incubated for 1 hour at 37°C followed by inactivation of the enzyme at 95°C for 5 min. The resulting cDNA is stored at -20°C until used. For 15 PCR amplification of cDNA, a 10 μ L reaction mixture is prepared containing 10x polymerase reaction buffer, 2 mM MgCl₂, 1 unit Taq DNA polymerase (Perkin-Elmer, Norwalk, CT), 20 ng cDNA, and 200 nM concentration of the 5' and 3' specific PCR primers of the sequences described in Morris et al (cited above). PCRs are carried out in a Perkin-Elmer 9600 thermal cycler for 23 cycles using melting, 20 annealing, and extension conditions of 94°C for 30 sec., 56°C for 1 min., and 72°C for 1 min., respectively. Amplified cDNA products are separated by PAGE using 5% native gels. Bands are detected by staining with ethidium bromide.

Western blots of the liver proteins are carried out using standard protocols after separation by SDS-PAGE. Briefly, proteins are separated on 10% SDS-PAGE 25 gels under reducing conditions and immunoblotted for detection of P-450 isoenzymes using a modification of the methods described in Harris et al, Proc. Natl. Acad. Sci., 88: 1407-1410 (1991). Protein are loaded at 50 μ g/lane and resolved under constant current (250 V) for approximately 4 hours at 20°C. Proteins are transferred to nitrocellulose membranes (Bio-Rad, Hercules, CA) in 15 mM Tris buffer containing 30 120 mM glycine and 20% (v/v) methanol. The nitrocellulose membranes are blocked with 2.5% BSA and immunoblotted for P-450 isoenzymes using primary monoclonal and polyclonal antibodies and secondary alkaline phosphatase conjugated anti-IgG. Immunoblots are developed with the Bio-Rad alkaline phosphatase substrate kit.

The three types of measurements of P-450 isoenzyme induction showed 35 substantial agreement.

APPENDIX Ia
Exemplary computer program for generating
minimally cross hybridizing sets
(single stranded tag/single stranded tag complement)

```

Program minxh
c
c
c
integer*2 subl(6),mset1(1000,6),mset2(1000,6)
dimension nbase(6)
c
c
write(*,*)'ENTER SUBUNIT LENGTH'
read(*,100)bsub
100 format(i1)
open(1,file='sub4.dat',form='formatted',status='new')
c
c
nset=0
do 7000 m1=1,3
  do 7000 m2=1,3
    do 7000 m3=1,3
      do 7000 m4=1,3
        subl(1)=m1
        subl(2)=m2
        subl(3)=m3
        subl(4)=m4
c
c
ndiff=3
c
c
c
Generate set of subunits differing from
c
c
c
subl by at least ndiff nucleotides.
Save in mset1.
c
c
jj=1
do 900 j=1,bsub
900   mset1(1,j)=subl(j)
c
c
do 1000 k1=1,3
  do 1000 k2=1,3
    do 1000 k3=1,3
      do 1000 k4=1,3
c
c
nbase(1)=k1
nbase(2)=k2
nbase(3)=k3
nbase(4)=k4

```


APPENDIX Ib

Exemplary computer program for generating
minimally cross hybridizing sets
 (single stranded tag/single stranded tag complement)

```

Program tagN
c
c
c      Program tagN generates minimally cross-hybridizing
c      sets of subunits given i) N--subunit length, and ii)
c      an initial subunit sequence. tagN assumes that only
c      3 of the four natural nucleotides are used in the tags.
c
c
c      character*1 sub1(20)
c      integer*2 mset(10000,20), nbase(20)
c
c
c      write(*,*)'ENTER SUBUNIT LENGTH'
c      read(*,100)nsub
100    format(i2)
c
c
c      write(*,*)'ENTER SUBUNIT SEQUENCE'
c      read(*,110)(sub1(k),k=1,nsub)
110    format(20a1)
c
c
c      ndiff=10
c
c
c      Let a=1 c=2 g=3 & t=4
c
c
c      do 800 kk=1,nsub
c      if(sub1(kk).eq.'a') then
c          mset(1,kk)=1
c      endif
c      if(sub1(kk).eq.'c') then
c          mset(1,kk)=2
c      endif
c          if(sub1(kk).eq.'g') then
c              mset(1,kk)=3
c          endif
c          if(sub1(kk).eq.'t') then
c              mset(1,kk)=4
c          endif
800    continue
c
c
c      Generate set of subunits differing from
c      sub1 by at least ndiff nucleotides.
c
c
c      jj=1
c
c
c      do 1000 kl=1,3

```

```

      do 1000 k2=1,3
      do 1000 k3=1,3
      do 1000 k4=1,3
      do 1000 k5=1,3
      do 1000 k6=1,3
      do 1000 k7=1,3
      do 1000 k8=1,3
      do 1000 k9=1,3
      do 1000 k10=1,3
      do 1000 k11=1,3
      do 1000 k12=1,3
      do 1000 k13=1,3
      do 1000 k14=1,3
      do 1000 k15=1,3
      do 1000 k16=1,3
      do 1000 k17=1,3
      do 1000 k18=1,3
      do 1000 k19=1,3
      do 1000 k20=1,3
c
c
      nbase(1)=k1
      nbase(2)=k2
      nbase(3)=k3
      nbase(4)=k4
      nbase(5)=k5
      nbase(6)=k6
      nbase(7)=k7
      nbase(8)=k8
      nbase(9)=k9
      nbase(10)=k10
      nbase(11)=k11
      nbase(12)=k12
      nbase(13)=k13
      nbase(14)=k14
      nbase(15)=k15
      nbase(16)=k16
      nbase(17)=k17
      nbase(18)=k18
      nbase(19)=k19
      nbase(20)=k20
c
c
      do 1250 nn=1,jj
c
      n=0
      do 1200 j=1,nsub
      if(mset(nn,j).eq.1 .and. nbase(j).ne.1 .or.
1           mset(nn,j).eq.2 .and. nbase(j).ne.2 .or.
2           mset(nn,j).eq.3 .and. nbase(j).ne.3 .or.
3           mset(nn,j).eq.4 .and. nbase(j).ne.4) then
           n=n+1
           endif
1200       continue
c
c
      if(n.lt.ndiff) then
          goto 1000
          endif
1250       continue
c
c
      jj=jj+1
      write(*,130)(nbase(i),i=1,nsub),jj
      do 1100 i=1,nsub

```

```
          mset(jj,i)=nbase(i)
1100      continue
c
c
1000      continue
c
c
      write(*,*)
130      format(10x,20(1x,i1),5x,i5)
      write(*,*)
      write(*,120) jj
120      format(1x,'Number of words=',i5)
c
c
      end
c
c
*****
```

APPENDIX Ic

Exemplary computer program for generating
minimally cross hybridizing sets

(double stranded tag/single stranded tag complement)

```

Program 3tagN
c
c
c      Program 3tagN generates minimally cross-hybridizing sets of
c      duplex subunits given i) N-subunit length,
c      and ii) an initial homopurine sequence.
c
c      character*1 subl(20) and mset(10000,20)
c      integer*2 mset(10000,20), nbase(20)
c
c      write(*,*)'ENTER SUBUNIT LENGTH'
c      read(*,100)nsub
c      format(i2)
c
c      write(*,*)'ENTER SUBUNIT SEQUENCE a & g only'
c      read(*,110)(subl(k),k=1,nsub)
c      format(20a1)
c
c      ndiff=10
c
c      Let a=1 and g=2
c
c      do 800 kk=1,nsub
c          if(subl(kk).eq.'a') then
c              mset(1,kk)=1
c          endif
c          if(subl(kk).eq.'g') then
c              mset(1,kk)=2
c          endif
c 800  continue
c
c      jj=1
c
c      do 1000 k1=1,3
c          do 1000 k2=1,3
c              do 1000 k3=1,3
c                  do 1000 k4=1,3
c                      do 1000 k5=1,3
c                          do 1000 k6=1,3
c                              do 1000 k7=1,3
c                                  do 1000 k8=1,3
c                                      do 1000 k9=1,3
c                                          do 1000 k10=1,3
c
c      do 1000 k11=1,3
c          do 1000 k12=1,3
c              do 1000 k13=1,3
c                  do 1000 k14=1,3
c                      do 1000 k15=1,3
c                          do 1000 k16=1,3
c                              do 1000 k17=1,3
c                                  do 1000 k18=1,3

```

```

      do 1000 k19=1,3
      do 1000 k20=1,3
c
      nbase(1)=k1
      nbase(2)=k2
      nbase(3)=k3
      nbase(4)=k4
      nbase(5)=k5
      nbase(6)=k6
      nbase(7)=k7
      nbase(8)=k8
      nbase(9)=k9
      nbase(10)=k10
      nbase(11)=k11
      nbase(12)=k12
      nbase(13)=k13
      nbase(14)=k14
      nbase(15)=k15
      nbase(16)=k16
      nbase(17)=k17
      nbase(18)=k18
      nbase(19)=k19
      nbase(20)=k20
c
      do 1250 nn=1,jj
c
      n=0
      do 1200 j=1,nsub
         if(mset(nn,j).eq.1 .and. nbase(j).ne.1 .or.
            mset(nn,j).eq.2 .and. nbase(j).ne.2 .or.
            mset(nn,j).eq.3 .and. nbase(j).ne.3 .or.
            mset(nn,j).eq.4 .and. nbase(j).ne.4) then
            n=n+1
         endif
1200      continue
c
      if(n.lt.ndiff) then
         goto 1000
      endif
1250      continue
c
      jj=jj+1
      write(*,130)(nbase(i),i=1,nsub),jj
      do 1100 i=1,nsub
         mset(jj,i)=nbase(i)
         continue
1100      continue
c
      write(*,*) 
      format(10x,20(1x,i1),5x,i5)
      write(*,*) 
      write(*,120) jj
      format(1x,'Number of words=',i5)
c
      end

```

SEQUENCE LISTING

11 pages

(1) GENERAL INFORMATION:

(i) APPLICANT: David W. Martin, Jr.

(ii) TITLE OF INVENTION: Measurement of Gene Expression profiles in Toxicity Determination

(iii) NUMBER OF SEQUENCES: 17

(iv) CORRESPONDENCE ADDRESS:

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(v) COMPUTER READABLE FORM:

- (A) MEDIUM TYPE: 3.5 inch diskette
- (B) COMPUTER: IBM compatible
- (C) OPERATING SYSTEM: Windows 3.1
- (D) SOFTWARE: Microsoft Word 5.1

(vi) CURRENT APPLICATION DATA:

- (A) APPLICATION NUMBER: PCT/US96/09513
- (B) FILING DATE: 06-JUN-96
- (C) CLASSIFICATION: 5

(vii) PRIOR APPLICATION DATA:

- (A) APPLICATION NUMBER: PCT/US95/12791
- (B) FILING DATE: 12-OCT-95

(viii) ATTORNEY/AGENT INFORMATION:

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(ix) TELECOMMUNICATION INFORMATION:

- (A) TELEPHONE: (510) 670-9365
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(2) INFORMATION FOR SEQ ID NO: 1:

(i) SEQUENCE CHARACTERISTICS:

- (A) LENGTH: 11 nucleotides
- (B) TYPE: nucleic acid
- (C) STRANDEDNESS: single
- (D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 1:

CTAGTCGACC. A sequence of 11 nucleotides, single stranded, linear, 11
length: 11 nucleotides

(2) INFORMATION FOR SEQ ID NO: 2:

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 11 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: single

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 2:

NRRGATCYNN. N sequence of 11 nucleotides, single stranded, linear, 11
length: 11 nucleotides

(2) INFORMATION FOR SEQ ID NO: 3:

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 38 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: single

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 3:

GAGGATGCCT TTATGGATCC ACTCGAGATC CCAATCCA. 38

(2) INFORMATION FOR SEQ ID NO: 4:

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 20 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: double

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 4:

AGTGGCTGGG CATCGGACCG

20

(2) INFORMATION FOR SEQ ID NO: 5:

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 20 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: double

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 5:

GGGGCCCACT CAGCGTCGAT

20

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 5: 20 GGGGCCCACT CAGCGTCGAT

(2) INFORMATION FOR SEQ ID NO: 6: 20 GGGGCCCACT CAGCGTCGAT

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 20 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: single

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 6:

ATCGACGCTG ACTGGGGCCC

16

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 6: 16 ATCGACGCTG ACTGGGGCCC

(2) INFORMATION FOR SEQ ID NO: 7: 16 ATCGACGCTG ACTGGGGCCC

(i) SEQUENCE CHARACTERISTICS:

(A) LENGTH: 62 nucleotides

(B) TYPE: nucleic acid

(C) STRANDEDNESS: double

(D) TOPOLOGY: linear

(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 7:

AAAAGGAGGA GGCCTTGATA GAGAGGACCT GTTTAACGG ATCCCTTTCC

50

TCTTCCTCTT CC

62

I claim:

1. A method of determining the toxicity of a compound, the method comprising the steps of:
 - 5 administering the compound to a test organism;
 - extracting a population of mRNA molecules from each of one or more tissues of the test organism;
 - 10 forming a separate population of cDNA molecules from each population of mRNA molecules from the one or more tissues such that each cDNA molecule of a separate population has an oligonucleotide tag attached, the oligonucleotide tags being selected from the same minimally cross-hybridizing set;
 - 15 separately sampling each population of cDNA molecules such that substantially all different cDNA molecules within a separate population have different oligonucleotide tags attached;
 - 20 sorting the cDNA molecules of each separate population by specifically hybridizing the oligonucleotide tags with their respective complements, the respective complements being attached as uniform populations of substantially identical complements in spatially discrete regions on one or more solid phase supports;
 - determining the nucleotide sequence of a portion of each of the sorted cDNA molecules of each separate population to form a frequency distribution of expressed genes for each of the one or more tissues; and
 - 25 correlating the frequency distribution of expressed genes in each of the one or more tissues with the toxicity of the compound.
- 25 2. The method of claim 1 wherein said oligonucleotide tag and said complement of said oligonucleotide tag are single stranded.
- 30 3. The method of claim 2 wherein said oligonucleotide tag consists of a plurality of subunits, each subunit consisting of an oligonucleotide of 3 to 9 nucleotides in length and each subunit being selected from the same minimally cross-hybridizing set.
- 35 4. The method of claim 3 wherein said one or more solid phase supports are microparticles and wherein said step of sorting said cDNA molecules onto the microparticles produces a subpopulation of loaded microparticles and a subpopulation of unloaded microparticles.
5. The method of claim 4 further including a step of separating said loaded microparticles from said unloaded microparticles.

6. The method of claim 5 further including a step of repeating said steps of sampling, sorting, and separating until a number of said loaded microparticles is accumulated is at least 10,000.
5
7. The method of claim 6 wherein said number of loaded microparticles is at least 100,000.
8. The method of claim 7 wherein said number of loaded microparticles is at least 500,000.
10
9. The method of claim 5 further including a step of repeating said steps of sampling, sorting, and separating until a number of said loaded microparticles is accumulated is sufficient to estimate the relative abundance of a cDNA molecule present in said population at a frequency within the range of from 0.1% to 5% with a 95% confidence limit no larger than 0.1% of said population.
15
10. The method of claim 4 wherein said test organism is a mammalian tissue culture.
20
11. The method of claim 10 wherein said mammalian tissue culture comprises hepatocytes.
12. The method of claim 4 wherein said test organism is an animal selected from the group consisting of rats, mice, hamsters, guinea pigs, rabbits, cats, dogs, pigs, and monkeys.
25
13. The method of claim 12 wherein said one or more tissues are selected from the group consisting of liver, kidney, brain, cardiovascular, thyroid, spleen, adrenal, large intestine, small intestine, pancreas, urinary bladder, stomach, ovary, testes, and mesenteric lymph nodes.
30
14. A method of identifying genes which are differentially expressed in a selected tissue of a test animal after treatment with a compound, the method comprising the steps of:
35
administering the compound to a test animal;

extracting a population of mRNA molecules from the selected tissue of the test animal;

4. forming a population of cDNA molecules from the population of mRNA molecules such that each cDNA molecule has an oligonucleotide tag attached, the 5 oligonucleotide tags being selected from the same minimally cross-hybridizing set;

10 sampling the population of cDNA molecules such that substantially all different cDNA molecules have different oligonucleotide tags attached;

15 sorting the cDNA molecules by specifically hybridizing the oligonucleotide tags with their respective complements, the respective complements being attached as uniform populations of substantially identical complements in spatially discrete regions on one or more solid phase supports;

determining the nucleotide sequence of a portion of each of the sorted cDNA molecules to form a frequency distribution of expressed genes; and

20 identifying genes expressed in response to administering the compound by comparing the frequency distribution of expressed genes of the selected tissue of the test animal with a frequency distribution of expressed genes of the selected tissue of a control animal.

25 15. The method of claim 14 wherein said oligonucleotide tag and said complement of said oligonucleotide tag are single stranded.

16. The method of claim 15 wherein said oligonucleotide tag consists of a plurality of subunits, each subunit consisting of an oligonucleotide of 3 to 9 nucleotides in length and each subunit being selected from the same minimally cross-hybridizing set.

30 17. The method of claim 16 wherein said one or more solid phase supports are microparticles and wherein said step of sorting said cDNA molecules onto the microparticles produces a subpopulation of loaded microparticles and a subpopulation of unloaded microparticles.

18. The method of claim 17 further including a step of separating said loaded microparticles from said unloaded microparticles.

35 19. The method of claim 18 further including a step of repeating said steps of sampling, sorting, and separating until a number of said loaded microparticles is accumulated is at least 10,000.

20. The method of claim 19 wherein said number of loaded microparticles is at least 100,000.

21. The method of claim 20 wherein said number of loaded microparticles is at least 500,000.

22. The method of claim 18 further including a step of repeating said steps of sampling, sorting, and separating until a number of said loaded microparticles is accumulated is sufficient to estimate the relative abundance of a cDNA molecule present in said population at a frequency within the range of from 0.1% to 5% with a 95% confidence limit no larger than 0.1% of said population.

23. The method of claim 17 wherein said test animal is selected from the group consisting of rats, mice, hamsters, guinea pigs, rabbits, cats, dogs, pigs, and monkeys.

24. The method of claim 23 wherein said selected tissue is selected from the group consisting of liver, kidney, brain, cardiovascular, thyroid, spleen, adrenal, large intestine, small intestine, pancreas, urinary bladder, stomach, ovary, testes, and mesenteric lymph nodes.

25. A use of the technique of massively parallel signature sequencing to determine the toxicity of a compound in a test organism, the use comprising the steps of: administering the compound to a test organism; extracting a population of mRNA molecules from each of one or more tissues of the test organism and forming a population of cDNA molecules for each of the one or more tissues; determining the nucleotide sequence of a portion of each of the cDNA molecules of each separate population using massively parallel signature sequencing to form a frequency distribution of expressed genes for each of the one or more tissues; and correlating the frequency distribution of expressed genes in each of the one or more tissues with the toxicity of the compound.

26. The use of claim 25 wherein said test organism is a mammalian tissue culture.

27. The use of claim 26 wherein said mammalian tissue culture comprises hepatocytes.

28. The use of claim 25 wherein said test organism is an animal selected from the group consisting of rats, mice, hamsters, guinea pigs, rabbits, cats, dogs, pigs, and monkeys.

5 29. The use of claim 28 wherein said one or more tissues are selected from the group consisting of liver, kidney, brain, cardiovascular, thyroid, spleen, adrenal, large intestine, small intestine, pancreas, urinary bladder, stomach, ovary, testes, and mesenteric lymph nodes.

10 30. A use of the technique of massively parallel signature sequencing to identify genes which are differentially expressed in a test organism after treatment with a compound and which are correlated with toxicity of the compound, the use comprising the steps of:

15 administering the compound to the test organism;

 extracting a population of mRNA molecules from a selected tissue of the test organism and forming a population of cDNA molecules;

 determining the nucleotide sequence of a portion of each of the cDNA molecules using massively parallel signature sequencing to form a frequency distribution of expressed genes;

20 identifying genes expressed in response to administering the compound by comparing the frequency distribution of expressed genes of the selected tissue of the test organism with a frequency distribution of expressed genes of the selected tissue of a control organism; and

25 determining whether the genes expressed in response to administering the compound are correlated with toxicity of the compound in the test organism.

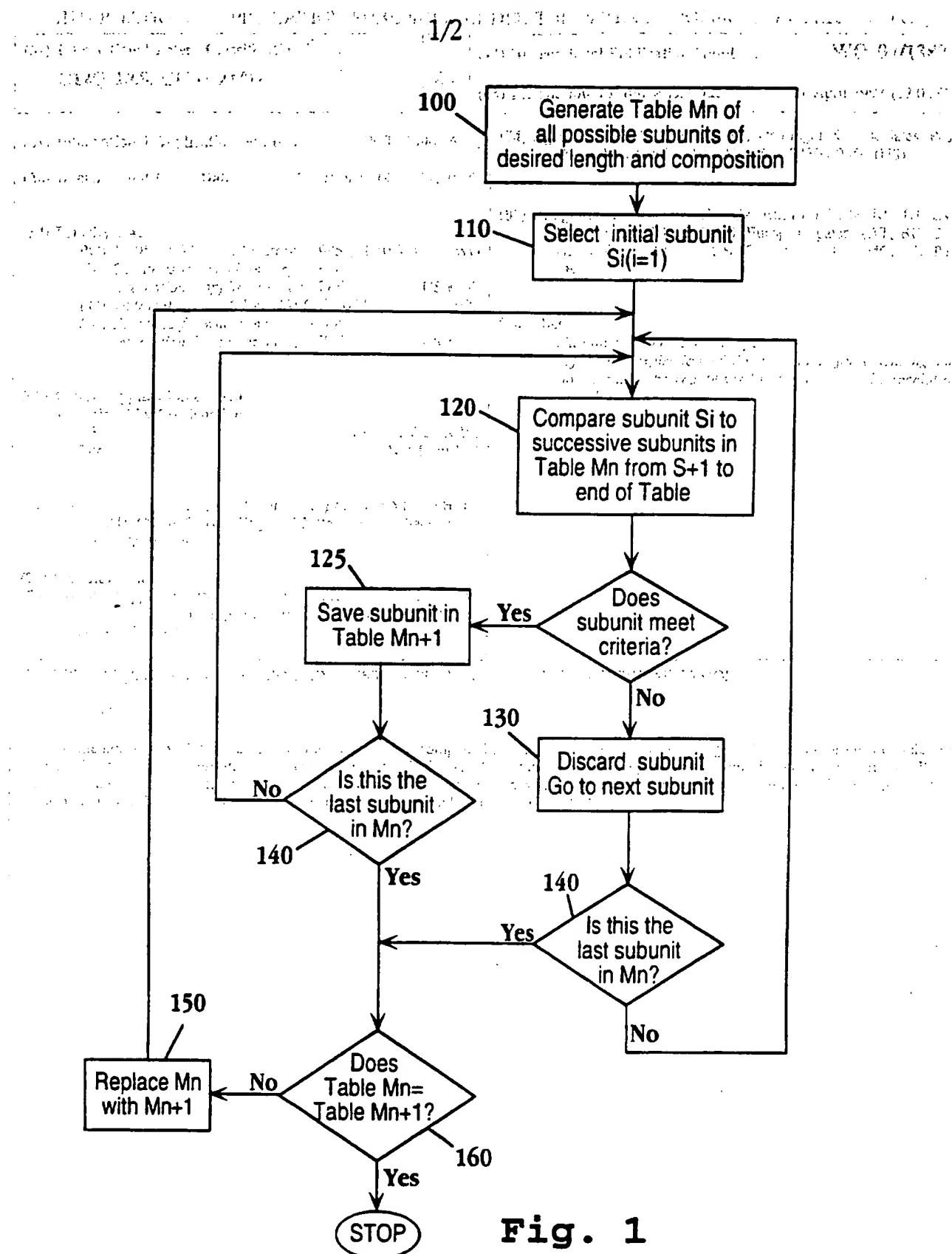


Fig. 1

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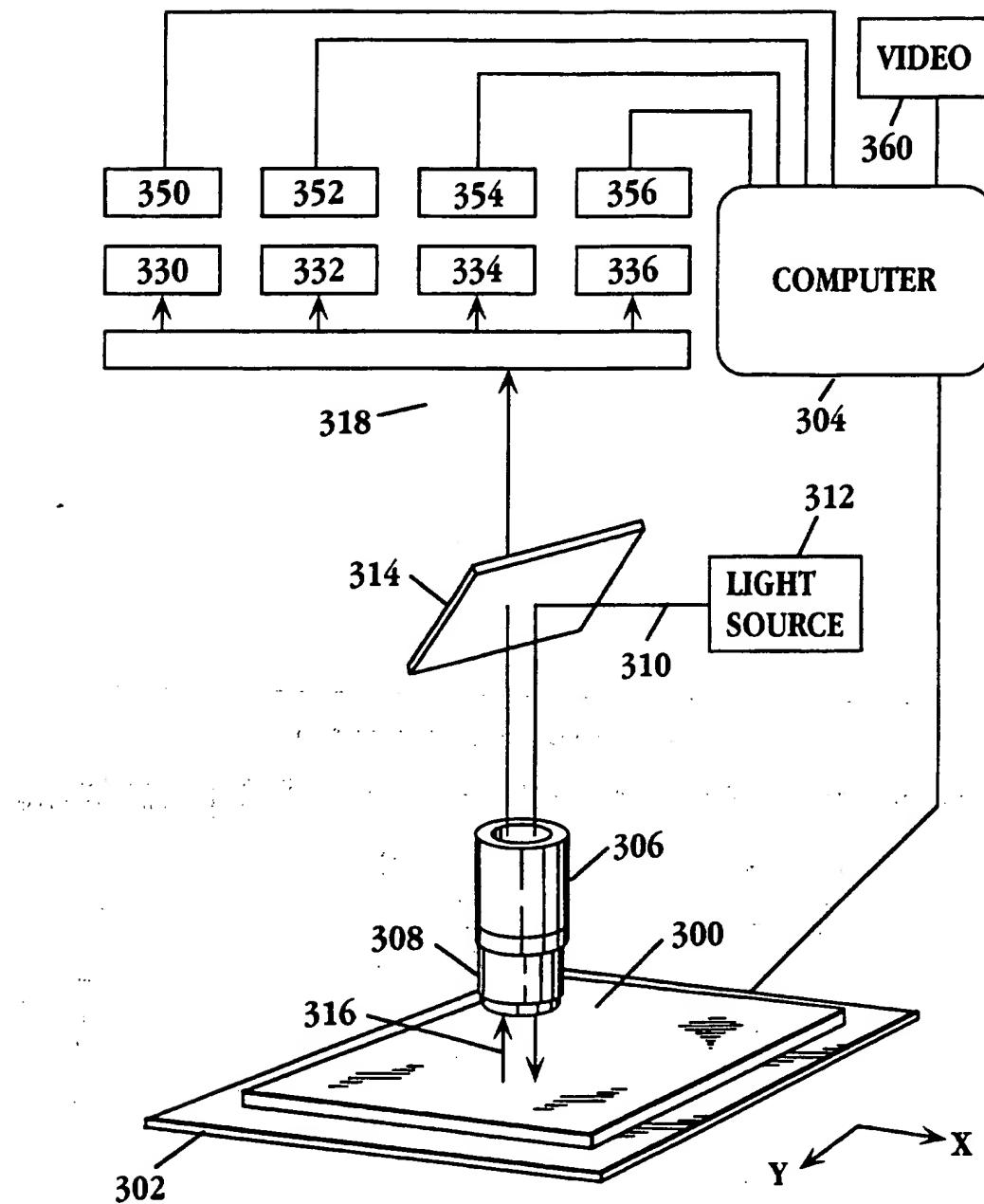


Fig. 2

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US96/16342

A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) : C12Q 1/68; C07H 21/04

US CL : 435/6; 536/24.3

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/6; 536/24.3

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

APS, MEDLINE, BIOSIS, CAPLUS, SCISEARCH

search terms: Martin, David W., toxic?, differential?, express?, cDNA, mRNA, RNA, gene#, hybrid?.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	CHETVERIN et al. Oligonucleotide arrays: New concepts and possibilities. Bio/Technology. 12 November 1994, Vol. 12, pages 1093-1099, especially pages 1095-1096.	1-30
A	BRENNER et al. Encoded combinatorial chemistry. Proceedings of the National Academy of Sciences USA. June 1992, Vol. 89, pages 5381-5383.	1-30
A	MATSUBARA et al. cDNA analyses in the human genome project. Gene. 15 December 1993, Vol. 135, No. 1-2, pages 265-274.	1-30

 Further documents are listed in the continuation of Box C. See patent family annex.

Special categories of cited documents:	
A	document defining the general state of the art which is not considered to be of particular relevance
E	earlier document published on or after the international filing date
L	document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reasons (as specified)
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P	document published prior to the international filing date but later than the priority date claimed
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"Y"	document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"A"	document member of the same patent family

Date of the actual completion of the international search

27 JANUARY 1997

Date of mailing of the international search report

19 FEB 1997

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INTERNATIONAL SEARCH REPORT

International application No.

PCT/US96/16342

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	<p>WO 95/21944 A1 (SMITHKLINE BEECHAM CORPORATION) 17 August 1995, page 4, lines 1-4, page 5, lines 31-37, page 17, lines 15-27, page 18, lines 30-35, page 20, line 23 to page 21, line 4.</p>	1-30